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Author and Title

New Mexico(Ter.) Laws, statutes, etc.
Laws of the territory of New Mexico.

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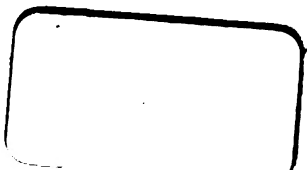
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Vol
1903-05







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1903
ACTS
OF THE
LEGISLATIVE ASSEMBLY
OF THE
TERRITORY OF NEW MEXICO



THIRTY-FIFTH SESSION

Convened in the Capitol, at the City of Santa Fe, on Monday, the 19th day
of January, 1903, and adjourned the 19th day
of March, 1903

Prepared for Publication by
J. W. RAYNOLDS,
Secretary of the Territory

BY AUTHORITY

SANTA FE, N. M.
The New Mexican Printing Company.
1903



The following reprint of the Session Laws of 1903 and 1905, has been made under the provisions of An Act of the Thirty-eighth Legislative Assembly of the Territory of New Mexico, being Section 7, of Chapter 127, Laws of 1909.

The text of the original copy has been followed with exactness, except for the correction of obvious clerical or typographical errors, as authorized by An Act of the Thirty-fifth Legislative Assembly (L. 1903, J. R. 11, Sec. 2. p. 265.)

NATHAN JAFFA,

Secretary of New Mexico.

Santa Fe, N. M., August 16, 1909.



OFFICIAL REGISTER

(Corrected to June 1, 1903.)

TERRITORIAL OFFICERS.

Office.	Name.	Address.	Term expires.
Governor	Miguel A. Otero.....	Santa Fe	Jan. 22, 1906
Secretary	J. W. Reynolds.....	"	Jan. 13, 1906
Solicitor general.....	E. L. Bartlett.....	"	Mar. 17, 1906
Auditor	W. G. Sargent.....	"	"
Treasurer	J. H. Vaughn.....	"	"
Superintendent of penitentiary.....	H. O. Bursum.....	"	"
Superintendent of public instr'n.....	J. Francisco Chaves.....	"	"
Librarian	Lafayette Emmett.....	"	"
Commissioner of public lands.....	A. A. Keen.....	"	"
Adjutant general.....	W. H. Whiteman.....	"	"
Trav'g auditor & bank exam'r.....	C. V. Safford.....	"	"
Game & fish warden.....	P. B. Otero.....	"	"
Public printer	J. S. Duncan.....	Las Vegas.....	"
JUDICIARY.			
Supreme Court.			
Chief justice	W. J. Mills.....	Las Vegas.....	Feb. 10, 1906
Associate justice	John R. McFie.....	Santa Fe	"
"	B. S. Baker.....	Albuquerque	Jan. 13, 1906
"	F. W. Parker.....	Las Cruces	Jan. 10, 1906
"	D. H. McMillan.....	Socorro.....	Dec. 18, 1904
Clerk.....	Jose D. Sena.....	Santa Fe	"
District Court.			
First district (counties of Santa Fe, Rio Arriba, Taos and San Juan):			
Judge	John R. McFie.....	Santa Fe	"
Clerk	A. M. Bergere.....	"	"
District attorney.....	E. C. Abbott.....	"	Mar. 17, 1906
Second district (counties of Bernalillo, McKinley, Valencia and Sandoval):			
Judge	B. S. Baker.....	Albuquerque	"
Clerk	W. E. Dame.....	"	"
District attorney.....	F. W. Clancy.....	"	"
Third district (counties of Dona Ana, Sierra, Grant, Otero and Luna):			
Judge	F. W. Parker.....	Las Cruces	"
Clerk	J. P. Mitchell.....	"	"
District attorney.....	W. H. Llewellyn.....	"	Mar. 17, 1906
District attorney.....			
		counties of Dona Ana, Luna & Otero.	"
		R. M. Turner, counties of Grant & Sierra	Silver City.....
			Mar. 17, 1906
Fourth district (counties of San Miguel, Leonard Wood, Quay, Mora, Colfax and Union):			
Judge	W. J. Mills.....	Las Vegas.....	"
Clerk	Secundino Romero.....	"	"
District attorney.....	S. B. Davis, Jr. counties of San Miguel, Mora, Leonard Wood and Quay.	"	"
District attorney.....			
		J. Leahy, counties of Colfax and Union,	Raton.....
			Mar. 17, 1906

OFFICIAL REGISTER

TERRITORIAL OFFICERS—Continued.

Office	Name	Address	Term Expires
Fifth district (counties of Socorro, Lincoln, Chaves, Eddy and Roosevelt):			
Judge.....	D. H. McMillan.....	Socorro.....	
Clerk.....	J. E. Griffith.....	".....	Mar. 17, 1905
District attorney.....	A. A. Sedillo, county of Socorro.....	".....	"
District attorney.....	W. B. H. Llewellyn, county of Lincoln.....	Las Cruces.....	"
District attorney.....	J. M. Hervey, counties of Eddy, Chaves and Roosevelt.....	Roswell.....	"

FEDERAL OFFICERS.

Office	Name	Address	Term expires
Surveyor General.....	M. O. Llewellyn.....	Santa Fe.....	Jan. 29, 1905
Collector Internal Revenue.....	A. L. Morrison.....	".....	Not apptd.
United States Attorney.....	W. B. Childers.....	Albuquerque.....	Feb. 13, 1905
Asst. United States Attorney.....	W. C. Reid.....	Las Vegas.....	Mar. 13, 1905
	E. L. Medler.....	Albuquerque.....	July 18, 1905
United States Marshal.....	C. M. Foraker.....	".....	June 1, 1905
Chief Deputy Marshal.....	G. A. Kaseman.....	".....	"
Register land office.....	M. R. Otero.....	Santa Fe.....	Jan. 29, 1905
Receiver land office.....	Fred Muller.....	".....	Dec. 12, 1905
Register land office.....	N. Galles.....	Las Cruces.....	Jan. 29, 1905
Receiver land office.....	H. D. Bowman.....	".....	"
Register land office.....	Howard Leland.....	Roswell.....	Feb. 23, 1907
Receiver land office.....	D. L. Guyer.....	".....	Jan. 12, 1905
Register land office.....	E. W. Fox.....	Clayton.....	"
Receiver land office.....	A. W. Thompson.....	".....	"
Jicarilla Indian agent.....	N. S. Walpole.....	Dulce.....	Civil service
Navajo Indian agent.....	G. W. Hayzlett.....	Gallup.....	"
Mescalero Indian agent.....	J. S. Carroll.....	Mescalero.....	"
Supt. Government Indian school.....	C. J. Crandall.....	Santa Fe.....	"
	R. P. Collins.....	Albuquerque.....	"
Supr'g. teacher Plo. day schools.....	Miss M. E. Disette.....	Santa Fe.....	Not apptd.
Attorney for Pueblo Indians.....	A. J. Abbott.....	".....	"
United States mine inspector.....	Jo. E. Sheridan.....	Silver City.....	"
Court of Private Land Claims			
Chief justice.....	J. R. Reed, of Iowa.....	".....	June 30, 1904
Associate justice.....	W. W. Murray, of Tennessee.....	".....	"
".....	H. C. Sluss, of Kas.....	".....	"
".....	F. I. Osborne, of North Carolina.....	".....	"
".....	W. F. Stone, of Colo.....	".....	"
Attorney.....	M. G. Reynolds, of Missouri.....	".....	"
Clerk.....	Ireneo Chaves of N. M.....	".....	"
Delegate in Congress.....			
Delegate.....	B. S. Rodey.....	Albuquerque.....	Mar. 4 1905

TERRITORIAL BOARDS AND INSTITUTIONS.

Name, etc.	Address	Term expires
Capitol Custodian Committee.		
N. B. Laughlin, president.....	Santa Fe.....	Mar. 17, 1905
Commissioner of public lands, ex-officio secretary.....	".....	"
E. L. Bartlett.....	".....	"

OFFICIAL REGISTER
TERRITORIAL BOARDS AND INSTITUTIONS.—Continued.

V

Name, etc.	Address	Term expires
Territorial Board of Equalization.		
J. S. Duncan, president.....	Las Vegas.....	Mar. 17, 1905
Venceslao Jaramillo, secretary.....	El Rito.....	"
Alejandro Sandoval.....	Albuquerque.....	"
J. A. Mahoney.....	Deming.....	"
J. F. Binkle.....	Lower Peñasco.....	"
Martin Lohman.....	Las Cruces.....	"
Robt. P. Ervien.....	Clayton.....	"
Cattle Sanitary Board.		
E. G. Austen, president.....	Las Vegas.....	Mar. 17, 1905
M. N. Chaffin.....	".....	"
W. L. Greer.....	Deming.....	"
C. L. Ballard.....	Roswell.....	"
W. C. Barnes.....	Dorsey.....	"
J. A. LaRue, secretary.....	Las Vegas.....	"
Sheep Sanitary Board.		
Solomon Luna, president.....	Los Lunas.....	Mar. 17, 1905
W. S. Prager, vice president.....	Roswell.....	"
Harry W. Kelly.....	Las Vegas.....	"
Thos. D. Burns, Jr.....	Tierra Amarilla.....	"
Chas. Schleiter.....	Clayton.....	"
H. F. Lee, secretary.....	Albuquerque.....	"
Bureau of Immigration.		
W. B. Bunker, president.....	Las Vegas.....	Mar. 17, 1905
G. Pendleton, vice president.....	Aztec.....	"
A. Grunsfeld.....	Albuquerque.....	"
J. W. Bible, treasurer.....	Hanover.....	"
J. E. Torres.....	Socorro.....	"
Max Frost, secretary.....	Santa Fe.....	"
Land Commission. ex-officio.		
Governor.....	Santa Fe.....	
Solicitor general.....	".....	
Commissioner of public lands.....	".....	
Commission of Irrigation		
G. A. Richardson, president.....	Roswell.....	Mar. 17, 1905
F. Springer.....	Las Vegas.....	"
G. W. Knaebel, secretary.....	Santa Fe.....	"
Chas. E. Miller.....	Anthony.....	"
Carl A. Dalles.....	Belen.....	"
New Mexico Board of Health		
G. W. Harrison, M. D., president.....	Albuquerque.....	Mar. 17, 1905
M. F. Desmarais, M. D., vice president.....	Santa Rosa.....	"
B. D. Black, M. D., secretary.....	Las Vegas.....	"
W. D. Radcliffe, M. D., treasurer.....	Belen.....	"
J. H. Sloan, M. D.....	Santa Fe.....	"
G. C. Bryan, M. D.....	Alamogordo.....	"
J. J. Shuler.....	Raton.....	"

VI

OFFICIAL REGISTER

TERRITORIAL BOARDS AND INSTITUTIONS—Continued.

Name, etc.	Address	Term expires
Board of Dental Examiners		
L. H. Chamberlin, president.....	Albuquerque.....	Mar. 17, 1905
C. N. Lord, secretary and treasurer.....	Santa Fe.....	Mar. 17, 1905
F. E. Olney.....	Las Vegas.....	Mar. 17, 1905
A. A. Bearup.....	Carlsbad.....	Mar. 17, 1905
E. L. Hammond.....	Las Vegas.....	Mar. 17, 1905
Board of Pharmacy		
A. J. Fischer, secretary.....	Santa Fe.....	Mar. 19, 1904
P. Moreno.....	Las Cruces.....	Mar. 19, 1905
W. C. Porterfield.....	Silver City.....	Mar. 19, 1906
E. G. Murphy.....	Las Vegas.....	Mar. 19, 1907
B. Ruppe, president.....	Albuquerque.....	Mar. 19, 1908
Board of Louisiana Purchase Exposition Managers		
Chas. A. Spless, president.....	Las Vegas.....	Mar. 1, 1905
Carl A. Dalles, vice president.....	Belen.....	Mar. 1, 1905
W. B. Walton, secretary.....	Silver City.....	Mar. 1, 1905
Arthur Seligman, treasurer.....	Santa Fe.....	Mar. 1, 1905
H. G. Hagerman.....	Roswell.....	Mar. 1, 1905
Eusebio Chacon.....	Las Vegas.....	Mar. 1, 1905
F. A. Jones.....	Albuquerque.....	Mar. 1, 1905
University of New Mexico, (Albuquerque)		
Regents: a		
H. L. Waldo.....	Las Vegas.....	Sept. 2, 1903
J. H. Wroth, secretary and treasurer.....	Albuquerque.....	Sept. 2, 1904
E. S. Stover.....	".....	Sept. 2, 1905
F. W. Clancy, president.....	".....	Sept. 2, 1906
E. V. Chavez.....	".....	Sept. 2, 1907
New Mexico College of Agriculture and Mechanic Arts (Las Cruces).		
Regents: a		
H. B. Holt, secretary and treasurer.....	Las Cruces.....	Sept. 2, 1903
W. A. Cooper.....	Santa Fe.....	Sept. 2, 1904
G. A. Richardson, president.....	Roswell.....	Sept. 2, 1905
Seaman Field.....	Deming.....	Sept. 2, 1906
J. R. Lucero.....	Las Cruces.....	Sept. 2, 1907
New Mexico Normal School (Silver City).		
Regents:		
Robert Black.....	Silver City.....	Feb. 18, 1904
W. G. Ritch, president.....	Engle.....	Feb. 18, 1905
J. Corbett.....	Deming.....	Feb. 18, 1906
Percy Wilson.....	Silver City.....	Feb. 18, 1907
E. M. Young, secretary and treasurer.....	".....	Feb. 18, 1908
New Mexico Normal University (Las Vegas).		
Regents:		
A. B. Smith, secretary and treasurer.....	Las Vegas.....	Feb. 22, 1904
C. Hfeld.....	".....	Feb. 22, 1905
M. W. Browne, president.....	".....	Feb. 22, 1906
C. A. Spless.....	".....	Feb. 22, 1907
W. B. Tipton.....	".....	Feb. 22, 1908
New Mexico School of Mines (Socorro)		
Regents:		
C. T. Brown, secretary and treasurer.....	Socorro.....	Sept. 2, 1903
F. G. Bartlett.....	Magdalena.....	Sept. 2, 1904
A. B. Fitch.....	".....	Sept. 2, 1905
A. E. Rouiller.....	Paraje.....	Sept. 2, 1906
J. J. Baca, president.....	Socorro.....	Sept. 2, 1907

OFFICIAL REGISTER

VII

TERRITORIAL BOARDS AND INSTITUTIONS—Continued.

Name, etc.	Address.	Term expires
New Mexico Military Institute (Roswell).		
Regents:		
J. C. Lea.....	Roswell.....	Mar. 22, 1904
Nathan Jaffa, president.....	".....	Mar. 22, 1905
E. A. Cahoon, treasurer.....	".....	Mar. 22, 1906
W. M. Reed, vice president.....	".....	Mar. 22, 1907
R. S. Hamilton, secretary.....	".....	Mar. 22, 1908
Territorial Board of Education.		
The Governor.....	Santa Fe.....	
The Superintendent of Public Instruction.....	".....	
President University of New Mexico.....	Albuquerque.....	Jan. 1, 1904
Maggie J. Bucher.....	Las Vegas.....	Jan. 1, 1905
President College of Agriculture and Mechanic Arts.....	Las Cruces.....	Jan. 1, 1906
President Silver City Normal School.....	Silver City.....	Jan. 1, 1907
President St. Michael's College.....	Santa Fe.....	Jan. 1, 1908
New Mexico Insane Asylum, Las Vegas.		
Board of Directors: a		
Thomas Ross.....	Las Vegas.....	Sept. 2, 1908
O. L. Gregory.....	".....	Sept. 2, 1904
M. Brunswick, secretary and treasurer.....	".....	Sept. 2, 1905
J. Reynolds, president.....	".....	Sept. 2, 1906
T. B. Hart, M. D.....	Raton.....	Sept. 2, 1907
Board of Penitentiary Commissioners.		
F. H. Pierce, president.....	Las Vegas.....	Mar. 17, 1905
W. H. Newcomb.....	Silver City.....	
Juan Navarro, secretary.....	Mora.....	"
Louis Uffeld.....	Albuquerque.....	"
Malaquias Martinez.....	Taos.....	"
Deaf and Dumb Asylum, Santa Fe.		
Commission to select site:		
R. J. Palen.....	Santa Fe.....	
S. G. Cartwright.....	Santa Fe.....	
J. A. Lucero.....	Espanola.....	
Institute for the Blind, Alamogordo.		
Commission to select site:		
A. J. King.....	Alamogordo.....	
A. P. Jackson.....	Alamogordo.....	
A. J. Hager.....	Mesilla Park.....	
Miners' Hospital, Raton.		
Commission to select site:		
A. R. Streicher.....	Raton.....	
M. R. Mendelson.....	Raton.....	
W. F. McCash.....	Exter.....	
Reform School.		
Commission to select site:		
T. D. Burns.....	Tierra Amarilla.....	
Venceslao Jaramillo.....	El Rito.....	
Pedro Sanchez.....	Taos.....	

- a. Governor and Superintendent advisory members.
- b. Superintendent of Public Instruction advisory member.

VIII

OFFICIAL REGISTER

Name, etc.	Address	Term expires
Orphan Children's Home, Belen. Board of Regents:		
Felipe Chavez.....	Belen.....	Feb 27, 1906
Solomon Luna.....	Los Lunas.....	"
John Becker.....	Belen.....	"
Albuquerque Armory, Board of Control.		
Capt. J. H. Stingle.....	Albuquerque.....	Apr. 6, 1904
Capt. M. O'Donald.....	".....	" 1905
Maj. J. E. Elder.....	".....	" 1906
Col. John Borrodalle.....	".....	" 1907
Las Vegas Army, Board of Control.		
Lieut. R. H. Gross.....	Las Vegas.....	Apr. 6, 1904
Capt. H. M. Smith.....	".....	" 1905
Capt. A. P. Tarkington.....	".....	" 1906
Maj. R. C. Rankin.....	".....	" 1907

- a. Governor and Superintendent advisory members.
b. Superintendent of Public Instruction advisory member.

35th Legislative Assembly.

(January 19 to March 19, 1908.)

Territory of New Mexico:**MEMBERS OF COUNCIL.**

District.	Name.	Address.	Politics.
1. Colfax, Mora, Union.....	Saturnino Pinard.....	Clapham.....	Rep.
2. San Miguel, Guadalupe.....	Chas. A. Spiess.....	Las Vegas.....	"
2. San Miguel, Guadalupe.....	James S. Duncan.....	Las Vegas.....	"
3. Taos, Rio Arriba, San Juan..	Venceslao Jaramillo.....	El Rito.....	"
3. Taos, Rio Arriba, San Juan..	Malaquias Martinez.....	Taos.....	"
4. Santa Fe.....	Amado Chaves.....	Santa Fe.....	"
5. Bernalillo.....	Geo F. Albright.....	Albuquerque.....	"
5. Bernalillo, McKinley.....	Thos. Hughes.....	Albuquerque.....	"
6. Valencia.....	J. Francisco Chaves.....	Progreso.....	"
7. Socorro, Sierra.....	W. H. Andrews.....	Andrews.....	"
8. Dona Ana, Grant, Luna, Otero	W. A. Hawkins.....	Alamogordo.....	"
9. Dona Ana, Grant, Lincoln, Luna, Chaves, Eddy, Otero	A. B. Fall.....	Las Cruces.....	"

OFFICIAL REGISTER

IX

MEMBERS OF HOUSE.

District.	Name.	Address.	Politics.
1. Colfax	M. B. Stockton	Raton	Rep.
2. Mora	Cristobal Sanchez	Ocate	"
3. Union	W. F. McCash	Exter	"
4. San Miguel	Pedro Romero	Cabra Springs	"
4. San Miguel	Gregorio Gutierrez	Tecolote	"
4. San Miguel	W. H. Coleman	Las Vegas	"
4. Guadalupe	Eduardo Martinez	Anton Chico	Dem.
5. Santa Fe	Wm Kilpatrick	Madrid	Rep.
5. Santa Fe	R. L. Baca	Santa Fe	"
6. Taos	Pedro Sanchez	Taos	"
7. Rio Arriba	Antonio D. Vargas	Ojo Caliente	"
8. Taos, Rio Arriba, San Juan	David Martinez, Jr.	Velarde	"
8. Taos, Rio Arriba, San Juan	Granville Pendleton	Aztec	"
9. Bernalillo	Nestor Montoya	Albuquerque	"
9. Bernalillo	Celso Sandoval	Sandoval	"
9. Bernalillo, McKinley	Alex Bowie	Gallup	"
10. Valencia	Carl A. Dalies	Belen	"
10	Martin Sanchez	Punta Manzano po	"
11. Socorro, Sierra	H. H. Howard	San Marcial	"
11.	Domingo A. Ortega	Sabinal	"
12. Dona Ana, Otero	W. H. H. Llewellyn	Las Cruces	"
13. Grant, Luna	R. M. Turner	Silver City	"
14. Dona Ana, Grant, Luna, Otero	A. W. Pollard	Deming	"
15. Lincoln, Chaves, Eddy	W. A. McIvers	Nogal	Dem.

OFFICERS OF THE COUNCIL.

J. Francisco Chaves	Speaker
W. E. Martin	Chief Clerk
E. E. Sidebottom	Enrolling and Engrossing Clerk
Thos. Branigan	Sergeant-at-arms
J. L. Gay	Chaplain
Benito Lujan	Messenger
Florencio Cortez	Watchman

OFFICERS OF THE HOUSE.

Nestor Montoya	President
Chas. V. Safford	Chief Clerk
O. P. Hovey	Enrolling and Engrossing Clerk
Seferino Crollott	Sergeant-at-arms
Rev. Adrian Rabeyrolle	Chaplain
Ramon Armijo	Messenger
Alejandro Mares	Watchman

ADDITIONAL EMPLOYEES—COUNCIL.

Harry P. Owen	Stenographer to Chief Clerk
M. T. Otero	Translator
Melesio Lucero	Assistant Enrolling and Engrossing Clerk
D. Montoya	Journal Clerk
Isidro Montoya	Assistant Journal Clerk
Pete Lynn	Assistant Sergeant-at-arms
Eugenio Moya	Doorkeeper
Franco Garcia	Doorkeeper
Frank P. Chaves	Reading Clerk
Chas Hubbell	Assistant Reading Clerk
N. F. Chaves	Postmaster
Vicente Montoya	Assistant Postmaster
E. Blanche Rothgeb	Committee Clerk
Martin Kelley	Committee Clerk
Transito Romero	Committee Clerk
Wm. Beal	Committee Clerk
J. G. Albright	Committee Clerk
Mary LaRue	Committee Clerk
Jan N. Sandoval	Committee Clerk
Lou Hughes	Stenographer
Marguerite Geimer	Stenographer

OFFICIAL REGISTER

W. E. Baker.....	Stenographer
Antonio Alarid.....	Messenger to Governor
Juan D. Romero.....	Watchman
Antonio J. Luna.....	Page
Remigio Mondragon.....	Page
J. M. Mestas.....	Porter
Jose Pino y Gallegos.....	Porter
Isias Roybal.....	Sweeper
Aniceto Moya.....	Sweeper
Bernardo Gonzales.....	Sweeper
Romualdo Rodriguez.....	Sweeper

ADDITIONAL EMPLOYES—HOUSE.

C. B. Llewellyn.....	Assistant Chief Clerk
A. A. Sedillo.....	Interpreter
H. L. Ortiz.....	Interpreter
Donaciano Chavez.....	Assistant Enrolling and Engrossing Clerk
J. C. Salazar.....	Assistant Enrolling and Engrossing Clerk
Marcos Castillo.....	Journal Clerk
T. J. Pollard.....	Assistant Journal Clerk
Fred T. Wylie.....	Assistant Sergeant-at-arms
Myer Hirsch.....	Reading Clerk
Jose Gonzales.....	Translator
Gabriel Armijo.....	Assistant Translator
Pearl Pendleton.....	Stenographer
Edwar P. Shield.....	Stenographer
Florence Hampel.....	Stenographer
Bertha Hase.....	Stenographer
Mrs. Blanche M. Steele.....	Stenographer
Abran Sandoval.....	Stenographer
Moises D. Vargas.....	Committee Clerk
Pedro O. Sanchez.....	Committee Clerk
James Wood.....	Committee Clerk
Zacarias Valdez.....	Committee Clerk
Horacio Otero.....	Committee Clerk
Aniceto Coca.....	Committee Clerk
Luca E. Gallegos.....	Committee Clerk
Felipe Baca y Garcia.....	Committee Clerk
Antonio Garcia y Armijo.....	Doorkeeper
A. B. Baca.....	Doorkeeper
Antonio Ma. Graham.....	Doorkeeper
D. C. Hobart.....	Doorkeeper
Albino Baca.....	Messenger to Governor
Telesfor Sandoval.....	Messenger
Romualdo Montoya.....	Messenger
Fabian Romero.....	Messenger
Hilario Martinez.....	Messenger
Eduardo Jaramillo.....	Messenger
Anastacio Sandoval.....	Messenger
Nestor Montoya, Jr.....	Messenger
Gregorio Sanchez.....	Postmaster
Daniel Martinez.....	Porter
Pablo Chavez.....	Cloakroom Clerk
Jose Ignacio Garcia.....	Bill Clerk
Buena V. Martinez.....	Bill Clerk
Merejildo Sisneros.....	Night Watchman
P. Baca.....	Day Watchman
Milton A. Hall.....	Page
Juan Anto. Ullbarri.....	Page
Ramon Trujillo.....	Page
Clarence Kilpatrick.....	Page
Homer Stephens.....	Page
Andres Romero.....	Sweeper
Librado Pacheco.....	Sweeper

County Officers, Territory of New Mexico.

ELECTED NOVEMBER 4, 1922.

Albuquerque, Bernalillo County.	Roswell, Chaves County	Raton, Colfax County	Las Cruces, Dona Ana County
County Comr. 1st District Severo Sanchez** " " 2nd " T. C. Gutierrez** " " 3rd " A. Harsh Probate Judge M. Baca Probate Clerk J. A. Summers Sheriff T. S. Hubbell Assessor J. M. Sandoval Treasurer F. A. Hubbell Supt. of Schools E. Vilel Surveyor D. J. Rankin	T. D. White W. M. Atkinson A. M. Robertson J. T. Evans J. P. Gayle F. Higgins J. C. Peck M. Howell J. McL. Gardiner V. R. Kinney	E. N. Burch P. C. Santistevan J. C. Taylor J. D. Fresquez J. P. Brackett Marion Littrell J. Hixenbaugh G. J. Pace W. A. (chapman) P. M. Davenport	Charles Miller S. Geck Felix Torres* M. Valdez I. Armijo J. R. Lucero T. Rouault O. Lohman A. Fountain
Carlsbad, Eddy County	Siler City, Grant County.	Santa Rosa, Leonard Wood Co*	Lincoln, Lincoln County
County Comr. 1st District J. H. James " " 2nd " C. Wilcox " " 3rd " N. W. Weaver Probate Judge A. Green Probate Clerk W. R. Owen Sheriff M. C. Stewart Assessor J. O. McKeen Treasurer J. D. Walker Supt. of Schools M. P. Kerr Surveyor B. A. Nymeyer	W. D. Murray J. C. Cureton H. G. Shafer L. H. Rowlee W. B. Walton J. K. Blair F. J. Swartz J. W. Fleming A. N. White G. R. Brown	B. Padilla J. C. Thomas R. Harrison F. Garcia M. B. Baca L. Casaus J. B. Giddings L. Sanchez F. L. Braun	J. V. Tully S. C. Weiner P. L. Krause F. Gomez L. Ellis J. W. Owen Robert A. Hurt E. M. Hubert E. J. Coe A. E. Williams
Deming, Luna County	Gallup, McKinley County	Mora, Mora County.	Alamogordo, Otero County
County Comr. 1st District Wm. M. Taylor* " " 2nd " S. S. Hirschfield " " 3rd " W. C. Wallis Probate Judge E. H. Matthews Probate Clerk B. Y. McKeyes Sheriff W. H. Foster Assessor J. H. Hodsdon Treasurer W. H. Gutney Supt. of schools U. F. Duff Surveyor N. J. Lloyd	W. L. Bretherton W. H. Morris S. E. Aldrich D. Apodaca F. W. Meyers W. A. Smith S. Canavan J. C. Spears L. L. Henry Wm. McVicker	M. Maestas F. A. Vigil M. Lopez G. Rivera E. H. Bierbaum T. Melendez A. Medina R. Roybal R. Romero W. H. Garner	C. D. Warnock E. Prado J. C. Tucker R. Lopez W. K. Stalcup J. Hunter T. F. Fleming I. N. Jackson J. E. Edgington J. E. Edgington *

* Officers appointed by Governor
** Officers appointed by Legislature

County Officers, Territory of Mexico--Continued

ELECTED NOVEMBER 4, 1902

Terra Amarilla, Rio Arriba County.		Aztec, San Juan County		Las Vegas, San Miguel County	
County Commissioner 1st District	F. A. Serna	J. V. Lujan		J. F. Esquelbel	
" 2nd "	A. C. de Baca	J. R. Williams		R. Galleros	
" 3rd "	V. Valdez	J. E. McCarty		A. T. Rogers	
Probate Judge	J. P. Lujan	M. Garcia		S. Baca	
Probate Clerk	B. C. Hernandez	J. Prewitt		A. A. Sena	
Sheriff	A. Read	J. E. Elmer		C. Romero	
Assessor	E. P. Jaquez	B. C. Vaughan		F. A. Chavez	
Superintendent of Schools	P. Esquelbel	A. G. Black		E. Romero	
Surveyor	S. Roybal	O. C. McFwen		J. M. Quintana	
	J. P. Rinker	Charles Holley		A. Fresquez	
Santa Fe, Santa Fe County		Hillsboro, Sierra County.		Socorro, Socorro County.	
County Commissioner 1st District	Arthur Sellgman	U. P. Arrey *		C. Jojola	
" 2nd "	A. L. Kendall	T. Murphy		A. Contreras	
" 3rd "	N. Quintana	V. Trujillo		C. Padilla	
Probate Judge	M. Castillo	P. Torres		M. Miera	
Probate Clerk	C. Lopez	J. M. Webster *		B. A. Pino	
Sheriff	H. C. Kinsell	M. L. Kahler		L. Baca	
Assessor	M. A. Ortiz	A. Kelley		B. Sanchez	
Treasurer	G. W. Knaebel	J. C. Piemous		H. G. Baca	
Superintendent of Schools	J. V. Conway	F. Luna y Garcia		A. C. Torres	
Surveyor	A. N. Griffin	A. Preisser		W. W. Jones	
Taos, Taos County.		Clayton, Union County.		Los Lunas, Valencia County.	
County Commissioner 1st District	A. Guedorf	C. Otto		A. Padilla	
" 2nd "	M. A. Chacon	J. P. Montoya		R. Jaramillo	
" 3rd "	H. Romero	E. Galegos		R. Garcia	
Probate Judge	L. Dominguez	Robato		H. Chavez	
Probate Clerk	T. M. Gonzales	R. P. Martinez		D. Vallejos	
Sheriff	F. Trujillo	P. Bach y Sanchez		Carlos Baca	
Assessor	A. Santisvean	L. Viera		B. W. Bibo	
Treasurer	T. Santisvean	J. M. Gonzales		S. Luna	
Superintendent of Schools	A. B. Trujillo	L. Casullo		J. C. Sanchez	
Surveyor	F. Santisvean	F. Garcia		R. G. Narmon	

* Officers Appointed by Governor.

** Officers Appointed by Legislature and County Commissioners.

County Officers, Territory of New Mexico—Continued.

ELECTED NOVEMBER 4, 1908			
Portales, Roosevelt County. *		Tucumcari, Quay County	
County Commissioner 1st District	W. O. Oldham	Isaac Barnes	E. A. Miera
" " 2nd	R. Hicks	J. P. McInerney	E. Baca
" " 3rd	H. Blalock	A. D. Goldsberg	L. Gutierrez
Probate Judge	C. L. Carter	T. W. Harris	Nicolas de la O.
Probate Clerk	W. C. Lindsey	N. V. Gallegos	O. P. Hovey
Sheriff	W. W. Odom	J. A. Street	F. J. Overo
Assessor	C. O. Leach	D. Stewart	M. Baca
Treasurer	W. K. Breeding	H. R. Neal	V. S. Miera
Superintendent of Schools	R. C. McAule	M. Rudolph	J. B. Archuleta
Surveyor	J. A. Fairly	J. Campbell	

* Officers Appointed by Governor.

** Officers Appointed by Legislature and County Commissioners.



CONTENTS BY TITLE

Each chapter contains one Act of the Thirty-fifth Legislative Assembly. The chapters are numbered in the order of approval by the Governor.

CHAPTER.	PAGE.
1. An Act relative to the duties of the cattle sanitary board. H. S. for H. B. No. 75	1
2. An Act to establish and maintain an asylum for the deaf and dumb, a reform school, an institution for the blind, and a miners' hospital for disabled miners. A. C. B. No. 38.....	2
3. An Act to repeal an act entitled "An Act to provide for the inspection and testing of coal oil in the Territory of New Mexico." C. B. No. 20..	7
4. An Act to authorize the treasurer of Grant county to pay over to the treasurer of the County of Luna certain school moneys. H. B. No. 30..	8
5. An Act relating to eminent domain, suits to partition real estate, actions to quiet title, sale of real estate of infants and married women and perpetuating testimony. C. S. for C. B. No. 30.....	
6. An Act entitled an act establishing an orphan children's home at Belen New Mexico, providing appropriation therefor, and for other purposes. C. B. No. 73.....	11
7. An Act to create Roosevelt county. A. C. B. No. 4.....	12
8. An Act to create Quay county. A. S. for H. B. No. 49.....	16
9. An Act in relation to mayors of cities, and to other officers. C. S. for C. B. No. 44.....	21
10. An Act for the relief of A. S. Baca for services in pursuing, arresting and returning to the jail of Santa Fe county, Jose Telles, an escaped prisoner accused of murder. H. B. No. 91.....	22
11. An Act to provide for the burial of honorably discharged soldiers sailors or marines who may hereafter die without means sufficient to defray funeral expenses. C. B. No. 6.....	2
12. An Act fixing the fees of the district attorney for the counties of Colfax and Union. C. B. No. 60.....	24
13. An Act with reference to taxation by municipal corporations, giving to cities and towns the power to levy a special tax for water and light purposes. A. C. B. No. 45.....	24
14. An Act conferring additional duties and powers upon mayors of cities and towns. A. C. B. No. 5.....	25
15. An Act relating to the distribution of the water of ditches by commissioners or superintendents. A. H. B. No. 56.....	26
16. An Act to amend section 1 of chapter 74 of the Session Laws of 1901, entitled "An Act to amend the first subdivision of section 4141 of the Compiled Laws of 1897, relating to peddlers." H. B. No. 95.....	27
17. An Act entitled "An Act to encourage the establishment of sanitariums in the Territory of New Mexico." H. B. No. 149.....	27
18. An Act in relation to the payment of taxes by the Santa Fe Pacific Railroad Company. H. B. No. 81.....	28
19. An Act entitled "An Act directing the territorial treasurer to transfer certain funds to penitentiary account." H. B. No. 70.....	29
20. An Act in relation to counties and county indebtedness. C. B. No. 111...	30
21. An Act to prevent injury to ditches, pipe lines, reservoirs, and the taking of and befouling of water therefrom. A. C. B. No. 68.....	32
22. An Act authorizing the consolidation of benevolent, charitable and scientific associations. C. B. No. 35.....	33

CHAPTER	PAGE
23. An Act providing for the writing and publishing of the history of New Mexico. C. B. No. 98.....	33
24. An Act changing the boundary of Rio Arriba county by adding thereto a portion of Santa Fe county. C. B. No. 68.....	35
25. An Act to amend section 7 of chapter 47 Session Laws of New Mexico, 1901, being an act entitled "An Act to provide for the appointment of a police force in unincorporated county seats having a population of more than 3,000 and for other purposes," approved March 19, 1901. C. B. No. 65.....	36
26. An Act to repeal section 1 of chapter 82, and chapter 90, Session Laws of 1901. C. B. No. 15.....	36
27. An Act to create the County of Sandoval. C. B. No. 102.....	37
28. An Act authorizing the compilation, printing and distribution of the school laws. S. for H. B. No. 83.....	43
29. An Act relating to the powers of probate courts. H. B. No. 137.....	44
30. An Act to repeal section 1871, Compiled Laws of New Mexico, and for other purposes. H. B. No. 29.....	45
31. An Act to amend section 3850 of the Compiled Laws of New Mexico of 1897, relating to proceedings for condemnation. H. B. No. 3.....	45
32. An Act relative to community ditches or acequias and to amend and repeal certain sections of the Compiled Laws of the Territory of New Mexico of 1897 with reference thereto. H. B. No. 26.....	46
33. An Act establishing the law and procedure in certain cases. H. B. No. 155....	51
34. An Act to amend an act entitled "An Act with reference to taxation by municipal corporations," approved March 11, 1899. H. B. No. 173.....	55
35. An Act entitled an act to amend section 18 of chapter 81 of the Laws of 1901 relating to the appointment of executors and administrators. H. B. No. 154.....	56
36. An Act to extend the provisions of an act of the 35th legislature entitled "An Act in relation to mayors of cities and to other officers," approved February 28, 1903, to all cities of the territory, whether incorporated under general or special laws. H. B. No. 161.....	56
37. An Act to provide for public school houses from the surplus in general school funds. A. H. B. No. 87.....	57
38. An Act requiring county officers in this territory to establish and maintain their offices in the county seat of their respective counties. H. B. No. 152....	59
39. An Act relative to compulsory education and to amend section 1555, Compiled Laws of 1897. H. B. No. 102.....	59
40. An Act to amend chapter 18 of the Laws of New Mexico of 1901. H. B. No. 36.....	61
41. An Act providing the procedure by which cities shall obtain title to private property by condemnation. C. B. No. 32.....	65
42. An Act empowering cities to grade and improve streets and assess the cost thereof against abutting property. A. C. B. No. 31.....	65
43. An Act entitled an act to amend sections 3721 and 3722 of Compiled Laws of New Mexico of 1897. C. B. No. 104.....	68
44. An Act to amend section 13 of Compiled Laws of 1897, relating to acequias or ditches, and for other purposes. A. C. B. No. 56.....	69
45. An Act to provide funds for the printing of the rules of the supreme and district courts of the Territory of New Mexico. C. B. No. 61.....	70
46. An Act grouping the several counties of the territory into districts for district attorney purposes and providing for the appointment of district attorneys therefor. A. C. B. No. 84.....	71
47. An Act to provide for the management of the Las Vegas grant, and for other purposes. C. B. No. 101.....	73
48. An Act to create the office of game and fish warden of the Territory of New Mexico, to provide for the protection of game and game fish, and for other purposes. C. B. No. 66.....	74
49. An Act to amend section 3 of an act entitled "An Act to create the County of Sandoval," approved March 10, 1903. C. B. No. 123.....	80

CHAPTER	PAGE
50. An Act to amend section 2 of an act entitled "An Act to create the County of Sandoval," approved March 10, 1903. C. B. No. 128.....	81
51. An Act granting certain lands in the City of Santa Fe, Territory of New Mexico, to the woman's board of trade and library association of said city as a site for a free public library building. A. C. B. No. 96.....	82
52. An Act relating to trust companies. C. S. for C. B. No. 10.....	83
53. An Act creating two armory boards of control, and providing for the construction of armories in the Cities of Las Vegas and Albuquerque, and authorizing an issue of bonds therefor. C. B. No. 114.....	100
54. An Act to establish the office of traveling auditor and bank examiner for the benefit of the territory and the several counties, and for other purposes. C. B. No. 88	103
55. An Act to amend the laws relative to the sheep sanitary board. C. B. No. 115	108
56. An Act to authorize and require the use of penitentiary labor to construct a public road from Santa Fe to Las Vegas. S. for H. B. No. 121.....	113
57. An Act prohibiting territorial or county officers from becoming sureties for others. H. B. No. 124	115
58. An Act with reference to public highways in the Territory of New Mexico. H. B. No. 147	116
59. An Act providing for the registration and use of emblems or devices upon ballots for voters. H. B. No. 44	117
60. An Act empowering cities to provide for the collection of garbage. C. B. No. 83	119
61. An Act entitled an act providing for additional members of the board of equalization. C. B. No. 91	120
62. An Act to amend section 2921 of the Compiled Laws of 1897, relating to limitations of actions. C. B. No. 81	121
63. An Act to prohibit the desecration of the American flag. C. B. No. 41..	121
64. An Act to amend the election law of the Territory of New Mexico. C. B. No. 64.....	122
65. An Act to regulate the admission of foreign corporations and providing a penalty for corporations failing to comply with the law. A. C. B. No. 52	123
66. An Act relating to county jails. C. B. No. 129	124
67. An Act to amend section 11 of chapter 90, Laws of 1901, relating to territorial bonded indebtedness and the redemption thereof. A. C. B. No. 23	125
68. An Act amending section 1, chapter 67, of the Laws of 1901, entitled "An Act regulating the assessment and taxation of building and savings and loan associations," approved March 20, 1901. C. B. No. 110	126
69. An Act entitled an act to create the County of Leonard Wood. H. S. for H. B. No. 162	127
70. An Act to create the County of Torrance and to provide for the government thereof. C. B. No. 122	132
71. An Act fixing the times of holding the district court in the Counties of Taos, Lincoln and McKinley, and the First Judicial District. H. B. No. 164	135
72. An Act to amend section 1534 of the Compiled Laws of 1897, relating to duties of school directors. H. B. No. 106	136
73. An Act providing for the appraisement of damage committed by animals of known owners upon cultivated fields and fenced lands, regulating the same, and for other purposes. H. B. No. 128	136
74. An Act to amend section 1543, Compiled Laws of 1897, relative to special levies for such school purposes. H. B. No. 115	140
75. An Act to provide for an assistant secretary for the Territory of New Mexico. H. B. No. 55	140
76. An Act entitled an act to amend section 1067 of the Compiled Laws of 1897, relating to the manner in which the death penalty shall be inflicted. H. B. No. 110	141
77. An Act in relation to the management of the Tecolote land grant. H. B. No. 208	142

CHAPTER	PAGE
78. An Act with reference to the selection, segregation, leasing and sale of the lands heretofore donated by the United States to the Territory of New Mexico for institutional, irrigation and other purposes. C. B. No. 113	144
79. An Act entitled "An Act to provide for adjusting the indebtedness of Luna county to Grant county." H. S. for H. B. No. 34	147
80. An Act relative to bounties on wild animals. H. B. No. 94	148
81. An Act entitled an act to prevent the cutting of timber from school sections. H. B. No. 139	149
82. An Act to authorize the treasurer of Luna county to pay over to the treasurer of the County of Grant certain moneys. H. B. No. 172	150
83. An Act entitled "An Act in reference to burials in churches and church yards and old cemeteries." H. B. No. 190	150
84. An Act authorizing boards of county commissioners to establish election districts in precincts casting over 500 votes. C. B. No. 87	151
85. Relative to public ditches. C. B. No. 103	151
86. An Act entitled an act providing for the drilling of artesian wells for the penitentiary. C. B. No. 9	153
87. An Act providing for a uniform system of index for all instruments affecting title to real estate, and for other purposes. C. B. No. 14	153
88. An Act providing for the equalization of taxes among the counties of the Territory of New Mexico. C. B. No. 127	155
89. An Act to provide for the refunding of certain county indebtedness. C. B. No. 107	159
90. An Act authorizing the practice of Osteopathy in the Territory of New Mexico. C. S. for H. B. No. 120	164
91. An Act granting to county commissioners the right of condemnation of private property for roads and highways in unincorporated county seats. C. B. No. 116	165
92. An Act to amend chapter 43 of the Session Laws of New Mexico of 1901, an act entitled "An Act for the protection of school children, and for other purposes." A. C. B. No. 79	165
93. An Act entitled an act amending an act entitled an act in relation to mayors of cities and other officers. C. B. No. 125	166
94. An Act requiring officers of companies and corporations doing business in the territory to disclose to the officer levying thereon, the number of shares or interest owned in such company or corporation by a shareholder. C. S. for H. B. No. 47	167
95. An Act to enable counties to compromise and adjust their bonded and other indebtedness. H. B. No. 198	168
96. An Act amending section 2, chapter 72, of the Session Laws of 1901. H. B. No. 148	170
97. An Act authorizing and empowering the board of education of the City of Santa Fe and Territory of New Mexico, to provide for the erection of a public school building, and making provisions for means to erect the same. C. S. for H. B. No. 143	172
98. An Act to amend section 8 of the Compiled Laws, relating to community ditches or acequias. H. B. No. 122	176
99. An Act requiring members of common councils in incorporated cities, and members of boards of trustees in incorporated towns and villages in the Territory of New Mexico to be residents and owners of real estate subject to taxation within the corporate limits of such city, town or village. H. B. No. 180	177
100. An Act to require county school superintendents to furnish their official bonds and qualify within certain time, and for other purposes. H. B. No. 59	177
101. An Act fixing the salaries of county commissioners of counties of the first class. C. B. No. 118	178
102. An Act to provide for the better preservation, classification and indexing of the Spanish and Mexican archives of the territory. C. S. for A. H. B. No. 118	179

CHAPTER	PAGE
103. An Act to preserve the public health. C. B. No. 76	180
104. An Act to amend an act of the 35th legislature entitled "An Act grouping the several counties of the territory into districts for district attorney purposes and providing for the appointment of district attorneys therefor," approved March 12, 1903. H. B. No. 219	192
105. An Act providing for the annexation of contiguous territory to cities, towns and villages. C. B. No. 54	192
106. An Act to amend chapter 108 of the Session Laws of 1901, approved March 21, 1901. C. S. for H. B. No. 126	194
107. An Act to create county boards of horticultural commissions in the Territory of New Mexico and to promote the horticultural interests in said territory. C. B. No. 21	195
108. An Act providing funds and making appropriations for the 55th and 56th fiscal years and for other purposes. C. S. for H. S. for C. S. for C. B. No. 57	199
109. An Act entitled an act to permit mercantile companies and associations to do banking in cities and towns of less than 1,500 inhabitants. H. B. No. 114	214
110. An Act to permit and authorize a levy of 1-2 mills for road fund purposes. H. B. No. 165	215
111. An Act to enable towns or villages in the Territory of New Mexico to change the character of their municipal government and for other purposes. H. B. No. 39	217
112. An Act to amend Sections 1, 2, 5, 9, and 11 of Chapter 66 of the Laws of New Mexico of 1899. H. B. No. 33	218
113. An Act entitled an act amending Section 5 of Chapter 84 of the Session Laws of 1901, relating to the location and keeping of bawdy houses in cities and villages in this territory. H. B. No. 179	221
114. An Act relating to corporations, domestic and foreign, prescribing fees to be paid for filing their articles and for other purposes. H. B. No. 170	222
115. An Act to amend the trust company law. C. B. No. 131	223
116. An Act providing for the sprinkling of streets in cities and assessing the expense thereof against owners of property abutting on said streets. C. B. No. 92	224
117. An Act to prevent indecent exposure. C. B. No. 135	224
118. An Act to provide for the collection, arrangement, and display of the products of the Territory of New Mexico at the Louisiana Purchase Exposition or St. Louis World's Fair of 1904, and to make an appropriation therefor. H. B. No. 192	225
119. An Act to harmonize and strengthen existing school laws. S. C. B. No. 89	228
120. An Act to regulate county institutes and for other purposes. H. B. No. 213	234
121. An Act to amend Section 223 of the Compiled Laws of 1897. H. B. No. 216	235
122. An Act to simplify the laws relating to depositions. H. B. No. 203	235

JOINT RESOLUTIONS

NUMBER	PAGE.
1. Extending vote of thanks to senators of congress of the United States who have supported the omnibus statehood bill. C. J. R. No. 2.	238
2. Extending vote of thanks to Hon. Bernard S. Rodey. C. J. R. No. 3 ..	238
3. Appropriation for the payment of employes and contingent expenses of the legislature. C. J. R. No. 6	239
4. Furnishing members of the legislature with copies of the Compiled Laws of 1897, and Laws of 1899 and 1901. H. J. R. No. 2	240
5. Deficiency appropriation providing payment for the printing and distribution of report of superintendent of public instruction for the year 1902. C. J. R. No. 5	240
6. Appropriation for the payment of employes and contingent expenses of the legislature, Conf. S. for C. S. for C. J. R. No. 9	241

NUMBER.	PAGE
7. Providing for the printing of bills, rules, reports, etc., in Spanish. C. S. for C. J. R. No. 4	242
8. With reference to inspection by house committee of the College of Agriculture and Mechanic Arts at Mesilla Park and the Military Institute at Roswell. H. J. R. No. 9	243
9. Providing for the payment of employes and contingent expenses of the legislature for second twenty days. H. J. R. No. 7	243
10. To secure publicity through the public press of the proceedings of the thirty-fifth legislative assembly. C. J. R. No. 7	244
11. An Act authorizing necessary corrections in the engrossed and the printed copies of bills, resolutions, etc. C. J. R. No. 11	244
12. Providing for the printing of the governor's message in both English and Spanish. A. C. J. R. No. 1	245
13. Formally accepting the tender of Oxford University scholarships by the late Cecil John Rhodes. C. J. R. No. 8	245
14. Providing for the payment of employes and contingent expenses of the legislature. H. J. R. No. 12	247
15. Making an appropriation for the payment of the expenses of the institutions inspection committees. H. J. R. No. 10	247
16. Making an appropriation to pay wages of officers and clerks for ten days after adjournment of the legislature. H. J. R. No. 11	248
17. Providing for addition pay for the regular capitol employes. H. J. R. No. 4	248

JOINT MEMORIALS

NUMBER.	PAGE
1. Petitioning senate of United States congress to pass the omnibus statehood bill. C. J. M. No. 1	250
2. Requesting the legislative assemblies of Arkansas, California, Kansas, Missouri, Montana, Nevada, North Dakota, South Dakota, Oregon, Utah, Washington and Wyoming to petition congress to pass the omnibus statehood bill. C. J. M. No. 2	252
3. To the President of the United States, asking that the Fort Marcy abandoned military reservation be granted the City of Santa Fe "for public use." H. J. M. No. 1	254
4. Petitioning for right and authority to legally refund the bonded indebtedness of Taos county, New Mexico. C. J. M. No. 3	255
5. Requesting the passage of H. R. 17087 introduced in the house of representatives January 27th, 1903, to permit the erection of drift fences on public lands in New Mexico, at places where such lands are not immediately needed for settlement or other uses. H. J. M. No. 2	257
6. Relating to the protection of American citizens temporarily residing in Mexico. H. J. M. No. 3	258
7. Requesting that the secretary of the interior segregate certain lands in San Juan county. H. J. M. No. 4	259
8. Requesting the passage by congress of House Bill No. 15369, known as the good roads law. H. J. M. No. 5	260

LAWS OF NEW MEXICO.

Thirty-Fifth Legislative Assembly, 1903.

CHAPTER 1.

AN ACT RELATIVE TO THE DUTIES OF THE CATTLE SANITARY BOARD. *H. S. for H. B. No. 75; Approved February 12, 1903.*

CONTENTS.

- Sec. 1.** Section 197, Compiled Laws of 1897, Regarding diseases of cattle and powers of Cattle Sanitary Board, Amended.
- Sec. 2.** Section 200, Compiled Laws of 1897, Regarding bond issue and tax levy by Cattle Sanitary Board, Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 197 of the Compiled Laws of the Territory of New Mexico for the year 1897, be, and the same is hereby amended by striking therefrom the words "other than" contained in the second line of said section, and by inserting the word "including" in place thereof; and by striking therefrom the word "except" at the end of the twelfth line of said section and by inserting the word "including" in place thereof.

Sec. 2. That section 200 of the Compiled Laws of the Territory of New Mexico for the year 1897, be, and the same is hereby amended by striking therefrom the word "not" at the end of first line of said section, and by inserting the word "including" in place thereof; and by inserting the words "or shall be likely to exist or shall be threatened" after the word "exist" in the third line of said section.

Sec. 3. This act shall be in force from and after its passage.

CHAPTER 2,

AN ACT TO ESTABLISH AND MAINTAIN AN ASYLUM FOR THE DEAF AND DUMB, A REFORM SCHOOL, AN INSTITUTION FOR THE BLIND, AND A MINERS' HOSPITAL FOR DISABLED MINERS. *A. C. B. No. 38; Approved February 13, 1903.*

CONTENTS.

- Sec. 1. "New Mexico Asylum for the Deaf and Dumb" created. Location.
- Sec. 2. "New Mexico Reform School" created. Location. Donation of land.
- Sec. 3. "New Mexico Institute for the Blind" created. Location. Donation of land.
- Sec. 4. "Miners' Hospital of New Mexico" created. Location. Donation of land.
- Sec. 5. Acceptance of grant of lands.
- Sec. 6. Boards of Trustees. Qualifications. Appointment. Term of office. Organization. Secretary and Treasurer to give bond.
- Sec. 7. Powers of Boards.
- Sec. 8. Institute for the Blind. Purpose. Rules of admission.
- Sec. 9. Miners' Hospital. Purpose. Rules of admission.
- Sec. 10. Reform School. Whom to be confined therein. Duty of courts. Term of confinement.
- Sec. 11. Reform School. Superintendent or Warden to enforce rules.
- Sec. 12. Committees. To select sites. Duties. Report to Governor. Compensation.
- Sec. 13. Erection of buildings. Boards of Trustees to advertise for bids and let contracts.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That there is hereby created and established an asylum for the deaf and dumb, to be known as the "New Mexico Asylum for the Deaf and Dumb," which is hereby established and permanently located at the city of Santa Fe, in the county of Santa Fe and Territory of New Mexico.

Sec. 2. That there is also hereby located and established a territorial institution, to be known and called the "New Mexico Reform School," which is hereby located somewhere within the counties of Taos, Rio Arriba or San Juan, upon a tract of land of not less than twenty acres, suitable for the purposes of such institution, to be donated and conveyed free of cost to the Territory of New Mexico, the title to which shall be examined and passed upon by the solicitor general, and proper conveyances thereof made within six months from the passage of this act, such tract of land to be selected by three commissioners appointed by the governor for that purpose as hereinafter provided.

Sec. 3. That there is also hereby created and established an institution of learning to be known as the "New Mexico Institute for the Blind," which is hereby located and established in the county of Otero in the Territory of New Mexico, at the town of Aalmogordo, in said county, upon a tract

of land suitable for the purposes of such institution, consisting of not less than twenty acres, to be donated and conveyed free of cost to the Territory of New Mexico, the title to which shall be examined and passed upon by the solicitor general, and proper conveyances thereof made within six months from the passage of this act, such tract of land to be selected by three commissioners to be appointed by the governor for that purpose as hereinafter provided.

Sec. 4. That there is also hereby created and established an institution to be known and called the "Miners' Hospital of New Mexico," which institution is hereby located at the City of Raton in Colfax county, New Mexico, upon a tract of land consisting of not less than ten acres within one mile of the depot of the railroad station of the Atchison, Topeka and Santa Fe Railroad Company at said town of Raton, to be donated and conveyed free of cost to the Territory of New Mexico, the title to which shall be examined and passed upon by the solicitor general, and proper conveyances thereof made within six months from the passage of this act, said tract of land to be selected by three commissioners to be appointed by the governor for that purpose as hereinafter provided.

Sec. 5. That act of congress, approved June 21st, 1898, entitled an act "to make certain grants of land to the Territory of New Mexico, and for other purposes," is hereby accepted with all its terms and conditions, by the Territory of New Mexico, in so far as the same apply to the above named institutions; and no improvements or buildings shall be made or created upon any of such lands as are hereinbefore provided for until proper deeds therefor, duly approved by the solicitor general, have been executed and recorded in the proper county and filed in the office of the secretary of the territory.

Sec. 6. The management and control of each of said institutions above established the care and preservation of all property of which they shall become possessed, the erection and construction of all buildings necessary for their use, and the disbursement and expenditure of all moneys appropriated by the Territory of New Mexico, or which shall otherwise come into their possession, shall be vested in a board of five trustees, one of such boards for each of said institutions; and each of said trustees shall be qualified voters and owners of real estate in the Territory of New Mexico. Said trustees shall possess the same qualifications, shall be appointed in the same manner, and their terms of office shall be the same and the vacancies therein shall be filled in the same manner as is now provided by law with reference to the regents of the Territorial University at Albuquerque, New

Mexico. Said trustees and their successors in office shall constitute a body corporate, under the name and style of "The Trustees of the New Mexico Asylum for the Deaf and Dumb," "The Trustees of the New Mexico Reform School," "The Trustees of the New Mexico Institute for the Blind" and "The Trustees of the Miners' Hospital of New Mexico," respectively, with the right as such of suing and being sued, of contracting and being contracted with, of making and using a common seal and altering the same at pleasure, and of causing all things to be done necessary to carry out the provisions of this act. A majority of such boards of trustees of any of the above institutions shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. Said trustees shall be respectively appointed by the governor of the Territory of New Mexico, within thirty days after he shall be notified by the secretary of the territory that the deeds for each of the above named institutions have been filed in his office; and it shall be the duty of each of said boards of trustees to meet and organize by electing its officers at the county seat of the county wherein the said institutions are located, within thirty days after their appointment, which officers shall be elected in the same manner and possess the same qualifications as the officers of the University of New Mexico now possess; and the secretary and treasurer respectively of each of such institutions located as aforesaid, shall each give bond in the sum of ten thousand dollars, (\$10,000) to the Territory of New Mexico, with two or more sufficient sureties resident of this territory, or by duly authorized surety company, conditioned for the faithful performance of their duties, and that they will faithfully account for and pay over to the person or persons entitled thereto, at the time and in the manner provided by law, or pursuant to contract, all moneys which shall come into their hands as such officers, which bond shall be approved by the judge of the district court within whose district the said institution is located, and after approval shall be filed and recorded in the office of the territorial secretary. The governor of the territory shall be ex-officio a member of each of the boards of trustees, but shall not have the right to vote or be eligible to office.

Sec. 7. The boards of trustees of each of said institutions shall have power, and it shall be their duty, to pass and enforce by laws, rules and regulations for the government of such institutions, for the proper carrying out of their several objects, not in conflict with the laws of the Territory of New Mexico, or any act of congress, and to provide all proper and necessary books, apparatus, instruments, medicines, clothing, food and supplies, and other materials or things nec-

essary for the proper conduct of the several institutions hereinbefore named and the care, support and protection of the inmates thereof when necessary; also to employ all teachers, physicians, wardens or superintendents and employes, and to prescribe the duties and compensation of each, and they shall have full power to remove or discharge any officer or employe appointed or selected by them in any of such institutions, when in their judgment the interest of such institution shall require.

Sec. 8. The institute for the blind herein established and created is intended and meant for the proper instruction of the blind youth of the territory, and all such persons resident in the territory between the ages of five and twenty-one years shall be entitled, upon application to the board of trustees, to free care and support and instruction at such institution; except in cases where such pupil or the parents or guardian thereof is possessed of property or means sufficient to enable him to pay the reasonable costs and charges incurred by his attendance at such institution, in which case he shall pay therefor.

Sec. 9. The miners' hospital hereby established and created is intended and meant to be for the free treatment and care of resident miners of the Territory of New Mexico, who may become sick or injured in the line of their occupation; and all lodging and medical care shall be free of charge, as shall all other expenses incurred by the patient, except in cases where such patient is possessed of property and means sufficient to enable him to pay the actual costs and charges incurred by his attendance at such hospital, in which case the board of trustees may make provision for his being charged and paying such expenses incurred.

Sec. 10. The reform school hereby created and established is intended and meant for the confinement, instruction and reformation of juvenile offenders against the laws of the Territory of New Mexico, and of any persons of idle, vicious or vagrant habits of both sexes in the Territory of New Mexico, under the age of eighteen years, who may be convicted of any offense less than a felony punishable by imprisonment in the penitentiary for the term of life, and it shall be the duty of the court upon such conviction, when it is shown to the court that the person convicted is under the age of eighteen years, to order the sentence to be executed by confinement in such reform school instead of in the penitentiary, after such school shall be fully equipped and prepared to receive, confine and care for such offenders, which time shall be designated by proclamation of the governor of the Territory of New Mexico; and thirty days after such proclamation

is issued and published it shall be the duty of all courts in the Territory of New Mexico to incarcerate offenders as aforesaid in the reform school instead of the penitentiary in passing sentence upon such offenders; and upon complaint under oath being made to any judge of the district court that any person of either sex under the age of eighteen years is of idle, vicious and vagrant habits, it shall be the duty of such court to investigate and pass upon the complaint so made as in cases of misdemeanors during the terms of the district court as other criminal cases are tried before it, and all the laws and provisions in regard to such trials for misdemeanors are hereby made applicable to such complaints, and in case said court shall find the complaint to be sustained by the evidence it shall find the defendant guilty and sentence him to such reform school for any period not exceeding one year; such proceedings before said court to take effect at the same time after proclamation by the governor as hereinbefore provided for other sentences in the district court.

Sec. 11. All persons sentenced to such reform school shall be compelled to perform such useful labor and submit to such rules and regulations in and about the said school and grounds as the board of trustees may prescribe, and the superintendent or warden shall have the power, and it shall be his duty, to see that all rules and regulations of the said board are properly enforced, and infringements thereof shall be properly punished.

Sec. 12. Within sixty days after the passage of this act the governor shall appoint a committee for each of the institutions above named, each of said committees to consist of three competent and disinterested persons, not more than two of whom shall live in any county wherein any of the above institutions are located by this act; and it shall be the duty of these commissioners to proceed to the localities named in this act for the establishment of the several institutions and their examination of the several sites which may be presented for the acceptance of the territory for the purposes named and their designation, adoption and selection or rejection of such lands be final, and unless the title for the land so selected shall be conveyed in the manner herinbefore provided within six months after the adoption of this act, then no portion of the moneys received from donations under the act of congress or by this act shall be available for the purposes of the institution so failing. The commissioners hereby named shall make a report in writing of their doings together with a description of the land selected, to the governor of the territory, together with a statement of costs and expenses incurred by them in making such selections for each institution

separately, and in addition to their actual costs and disbursements each commissioner shall be allowed the sum of six dollars per day for each day actually and necessarily occupied in carrying out the provisions of this section, not to exceed ten days for any institution; which amount, including costs and disbursements, is hereby declared to be a necessary and proper charge against the funds provided herein for the creation and maintenance of each of said institutions, and shall be paid out of any such funds that may come into the hands of the territorial treasurer for that fund, upon a bill therefor sworn to by each of such commissioners and approved by the governor of the territory.

Sec. 13. That the boards of trustees first appointed for the several institutions provided for in this act shall be empowered to contract for the erection, and shall erect all buildings necessary for the maintenance of the above named institutions, and shall be empowered to provide for the furnishing of the same and the improving of the grounds thereof: *Provided*, that the said boards of trustees in contracting for the erection or in erecting any of said buildings for the above named institutions shall advertise for bids for the erection of the same specifying in said advertisements the character of building to be erected in the place where the plans and specifications of said buildings may be found and let all bids for the erection of said buildings to the lowest and best bidder therefor; *and provided further*, that in furnishing said buildings or improving the grounds thereof said boards shall call for bids and let the same to the lowest and best bidders therefor upon any items the cost of which is more than one hundred dollars.

Sec. 14. This act shall be in force from and after its passage.

CHAPTER 3.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE INSPECTION AND TESTING OF COAL OIL IN THE TERRITORY OF NEW MEXICO." C. B. No. 20; Approved February 13, 1903.

CONTENTS.

Sec. 1. Chapter 64, Laws of 1901, regarding inspection and testing of coal oil Repealed.

Sec. 2 All Acts, regarding inspection and testing of coal oil, Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That chapter 64 of the acts of the 34th Legisla-

tive Assembly of the Territory of New Mexico, being "An Act to provide for the inspection of coal oil in the Territory of New Mexico," approved March 20th, 1901, be and the same is hereby repealed in all its parts and provisions, except as to its repealing clause.

Sec. 2. That all acts and parts of acts other than said act, if any, providing for coal oil, gasoline or crude oil inspection in the Territory of New Mexico, or for the appointment of an oil or gasoline inspector, be and the same are hereby repealed.

Sec. 3. This act shall take effect and be in full force from and after thirty days from its passage.

CHAPTER 4.

AN ACT TO AUTHORIZE THE TREASURER OF GRANT COUNTY TO PAY OVER TO THE TREASURER OF THE COUNTY OF LUNA CERTAIN SCHOOL MONEYS. H. B. No. 30; Approved February 18, 1903.

CONTENTS.

Sec. 1. Payment of certain school moneys authorized.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The treasurer of the County of Grant is hereby authorized and directed to pay over to the treasurer of the County of Luna such sums of money as were standing to the credit of the several school districts of that portion of Grant county now embraced within the boundaries of Luna county, at the date of the creation of said Luna county.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 5

AN ACT RELATING TO EMINENT DOMAIN, SUITS TO PARTITION REAL ESTATE, ACTIONS TO QUIET TITLE, SALE OF REAL ESTATE OF INFANTS AND MARRIED WOMEN AND PERPETUATING TESTIMONY. C. S. for C. B. No. 30; Approved February 18, 1903.

CONTENTS.

Sec. 1. Sub-section 175 of Section 2085, Compiled Laws of 1897, Regarding Code of Civil Procedure. Amended.

Sec. 2. Section 2053, Compiled Laws of 1897, Regarding Sale of Infants' Property Amended.

Sec. 3. Section 3063, Compiled Laws of 1897, Regarding Appointment of Guardian and Decree of Court to Sell Property Amended.

Sec. 4. Section 10, Chapter 68, Laws of 1901, Regarding Conveyances of Married Persons, Amended.

Sec. 5. Section 3064 Compiled Laws of 1897 Regarding Notice for Taking Depositions to Perpetuate Testimony, Amended.

Sec. 6. Sections 3063, 3064 and 3065, Compiled Laws of 1897, Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That sub section 175 of section 2685 of the Compiled Laws of New Mexico of 1897 be amended so as to read as follows:

"Sub-Sec. 175. This act shall not apply to or in anywise affect actions in *habeas corpus*, *mandamus*, prohibition, *quo warranto*, replevin, attachment, ejectment, eminent domain, suits for partitioning real estate, actions to determine and quiet the title of real property, proceedings for the sale of real estate of infants, except as to the form of the action and all process in the above mentioned actions, suits and proceedings shall be issued, served and made returnable in the manner and time in accordance with the provisions of section 2685 of the Compiled Laws of New Mexico of 1897 unless such process is otherwise directed to be issued, served and made returnable by the laws relating to said above mentioned actions, suits and proceedings."

Sec. 2. That section 2052 of the Compiled Laws of 1897 be and the same hereby is amended so as to read as follows:

"Section 2052. An infant by his general guardian, if he has any, and by his next friend, if he has no general guardian, may present a petition to the district court or the probate court of the county where the real estate to be affected, or any part thereof, is situate, stating the age and residence of the infant, the situation and value of his real and personal estate, the situation, value and income of the real estate proposed to be sold or conveyed and the particular reason which renders a sale or conveyance or sale of the premises necessary or proper and praying that a guardian may be appointed to sell and convey the same or to convey the same alone in case a sale should be necessary."

Sec. 3. That section 2053 of the Compiled Laws of 1897 be and the same hereby is amended so as to read as follows:

"Section 2053. If, after investigation by the court, it should appear there is proper ground for the application and that the allegations of the petition are true, an order may be entered appointing a guardian for the purpose of the application on executing and filing in the court requisite security approved of as to its form, validity and sufficiency by the

judge of the court, signified by his endorsements thereon. And thereupon the court shall decree the property or so much thereof as the court may deem proper to be sold and conveyed by said guardian at private or public sale and in case a sale could not be required the court may decree a conveyance thereof if proper to the party entitled to such conveyance as may be determined on by the said investigation and all such sales and conveyances, when made, shall be reported to the court by the guardian making the same and if found regular shall be approved by the court and thereafter the title of such infant, in such property, shall be vested in the party to whom it may be so conveyed, *provided* that where a conveyance only is required to be made on account of some past consideration which has already been paid or received, or to carry out some agreement which has been made or executed, by which the interest of such infant has been affected, and which in good faith should be carried into effect, no bond shall be required of such guardian."

Sec. 4. That section 10 of chapter 62 of the session acts of the Legislative Assembly of 1901 be and the same is hereby amended by striking out all of said section after the word "validated" in the eighth line of said section.

Sec. 5. That section 3052 of the Compiled Laws of 1897 be and the same is hereby amended so as to read as follows:

"Section 3052. The party applying for the commission shall give notice by publication to all concerned in a newspaper published nearest to the place where the depositions are to be taken for four consecutive weeks of the time and place of taking the depositions and proof of such publication shall be made by affidavit of the publisher thereof, and where real estate or any interest in any real estate is to be affected thereby, a description of such real estate sufficient to identify the same, a brief statement of the cause of action in which said deposition is to be used, a copy of the first issue of the newspaper containing said publication of said notice, shall be mailed within one week after the issue thereof by the party applying for the commission, his agent or attorney, to the postoffice address, if known, postage paid, of each person who is known to him to claim an interest in the real estate or subject matter of the suit, which claim would be affected by such deposition. The person or persons giving or mailing the notices above provided shall make proof thereof by affidavit and when it shall be made to appear by such affidavit that notice has been given as above provided, the same shall be sufficient evidence that due and timely notice has been given to all persons interested in the real estate or cause of action to be affected by such deposition."

Sec. 6. Sections 3053, 3054 and 3055 of the Compiled Laws of 1897 are hereby repealed.

Sec. 7. This act shall be in force and effect from and after its passage.

CHAPTER 6.

AN ACT ENTITLED AN ACT ESTABLISHING AN ORPHAN CHILDREN'S HOME AT BELEN, NEW MEXICO, PROVIDING APPROPRIATION THEREFOR, AND FOR OTHER PURPOSES. C. B. No. 73; *Approved February 24, 1903.*

CONTENTS

Sec. 1. Orphan children's home. Location. Board of regents. Duties.

Sec. 2. Buildings May be Used for School Purposes.

Sec. 3. Appropriation. Tax levy by auditor.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. There is hereby established and located an Orphan Children's Home at Belen, New Mexico, which shall be conducted under the management and control of a board of regents to be composed of three persons who shall be appointed by the governor for a term of two years each, and shall file their oaths of office before entering upon their duties as such regents, in the manner prescribed by law for the qualification of other territorial officers.

Sec. 2. Until such time as the legislature may otherwise direct, any buildings which may hereafter be constructed at Belen for such orphan children's home may be used as a public school building provided that no appropriation for maintenance or current expense shall now or hereafter be made or in any way defrayed by the territory during the use of such building for public school purposes.

Sec. 3. For the purpose of erecting a suitable building for the purposes mentioned in section 1 of this act, there is hereby appropriated for the 55th fiscal year, twenty-five one-hundredths (25-100) of one (1) mill the proceeds of which shall be used for permanent improvements under the direction and management of said board of regents, and the territorial auditor is hereby directed to make a levy in accordance herewith, and the funds derived from such levy shall be payable in the manner now prescribed by law for the payment of funds to other institutions.

Sec. 4. This act shall be in full force and effect from and after its passage.

CHAPTER 7

AN ACT TO CREATE ROOSEVELT COUNTY. A. C. B. No. 4; Approved February 28, 1903.

CONTENTS

- Sec. 1. Roosevelt county. Creation. Boundaries.
- Sec. 2. County Seat. Location. Public buildings.
- Sec. 3. County commissioners. To divide county into precincts. To appoint precinct and school district officers.
- Sec. 4. County officers. Appointment by governor. Term of office.
- Sec. 5. Commission to ascertain amount of indebtedness due to Chaves and Guadalupe counties. Of whom composed.
- Sec. 6. Bond issue. Purpose. Rate of interest. Maturity. Form.
- Sec. 7. Sale of bonds. Purpose. Provision for payment of interest. Sinking fund created.
- Sec. 8. Issue of bonds for court house and jail purposes, and current expenses.
- Sec. 9. Unpaid taxes and licenses. Proportion to be credited on debt. School funds.
- Sec. 10. Delinquent taxes and unpaid licenses. List to be delivered to county commissioners.
- Sec. 11. Judicial district. Time for holding court. District attorney. Salary.
- Sec. 12. Legislative district.
- Sec. 13. County and precinct officers. Jurisdiction until when.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That there be and hereby is created a county, to be known as and called Roosevelt county, out of that portion of the Territory of New Mexico included in the following boundaries as indicated by the United States survey, to wit: Commencing at the southwest corner of township two south, range twenty-seven east of the New Mexico principal Base and Meridian; thence north along the range line between twenty-six and twenty-seven east; to the northwest corner of township four north of range twenty-seven east; thence east along the north line of township four north (projected) to its point of intersection with the Texas-New Mexico boundary line; thence south along the Texas-New Mexico boundary line to the point of its intersection with the First Standard Parallel South (projected eastward;) thence west along the First Standard Parallel South to the southwest corner of township five south, range thirty-one east; thence north along the range line between ranges thirty and thirty-one east to the southwest corner of township four south, range thirty-one east; thence west along the south line of township four south, range thirty east to the southwest corner of township four south, range thirty east; thence north along the range line between ranges twenty-nine and thirty east, to the southwest corner of township two south, range thirty east;

thence west along the south boundary line of township two south to the point of beginning.

Sec. 2. That the county seat of the said county of Roosevelt shall be established at the town of Portales in said county; and that the board of county commissioners of said county (to be appointed or elected as hereinafter provided) shall select and designate the most proper and convenient place in said town for the erection of the public buildings of said County of Roosevelt.

Sec. 3. The county commissioners appointed under this act, are authorized and empowered to divide said county of Roosevelt into precincts and to appoint in each precinct and school district the officers provided by law until after the first election.

Sec. 4. It shall be the duty of the governor the Territory of New Mexico, on or before the first day of April, A.D. 1903, to appoint for the said County of Roosevelt the county officers now provided by law for the counties in the territory, and the officers so appointed shall immediately thereafter qualify and enter upon the discharge of their duties as such officers. And the officers so appointed shall serve until the election and qualification of their successors, who shall be elected at the next general election for such officers, and the governor shall likewise appoint officers to fill any vacancies caused by the failure of any such appointees to qualify as required by law.

Sec. 5. It shall be the duty of the auditor, treasurer and solicitor general of the territory to assemble as a commission for that purpose and ascertain, on or before the first day of June, A. D. 1903, the total separate indebtedness of both Chaves county and Guadalupe county, from which Roosevelt county is segregated, less cash on hand to meet such indebtedness, and the value of all permanent public improvements excepting bridges remaining in said counties of Chaves and Guadalupe; and also to ascertain from the assessment rolls for the year 1902 the value of all taxable property embraced within the limits of Roosevelt county so taken from Chaves and Guadalupe counties; and thereupon to determine the amount of such indebtedness that may be due from Roosevelt county to Chaves and Guadalupe counties respectively, less the amount of cash on hand in each of said counties to meet such indebtedness, as such conditions existed on the first day of January, 1903; and the amounts so found to be due from Roosevelt county to Chaves and Guadalupe counties respectively, by said commission shall be final and conclusive on each of said counties.

Sec. 6 For the purpose of enabling Roosevelt county to

pay to Chaves and Guadalupe counties the amounts of its obligations and debts to them respectively, as found and ascertained by the commission provided for in section 5 of this act, the board of county commissioners of Roosevelt county is hereby authorized and directed to issue its coupon bonds of that county, which bonds shall bear interest at a rate not to exceed six per cent. per annum, payable semi-annually; such said bonds shall be payable absolutely twenty years from their date and at the option of said county ten years from their date; they shall be in amounts of one hundred dollars (\$100.) each or in multiples thereof; they shall be signed by the chairman of the board of county commissioners, countersigned by the clerk of said board, attested by its seal and endorsed by the treasurer of the county, with the engraved signature of the clerk of the probate court of said county on the coupons thereto attached, and shall be in form to be approved by the district attorney for the County of Chaves, Territory of New Mexico.

Sec. 7. Such bonds may be sold for cash, at not less than par, and out of the proceeds of such sale the indebtedness of Roosevelt county to said Counties of Chaves and Guadalupe as found by said commission, shall be paid and satisfied in full; and if such sale cannot be made by the first day of January, A. D. 1904, then and in that case, said bonds and coupons attached shall be turned over to Chaves and Guadalupe counties in full settlement of the indebtedness of Roosevelt county to Chaves and Guadalupe counties respectively, and it shall be the duty of the board of county commissioners of Roosevelt county to annually levy a tax sufficient to pay the interest coupons coming due semi-annually upon said bonds, and in addition a sufficient amount to create a sinking fund to pay said bonds when they become due; which sinking fund tax shall be levied annually from and after five years after the passage of this act; said bonds shall be the first issued by Roosevelt county, and the levy for the payment of interest shall be the first made, and such bonds shall be known and designated as 'Roosevelt County Establishment Bonds.' Such bonds shall be dated the first day of July, A. D. 1903, and the coupons shall become due and be payable semi-annually thereafter. The debt ascertained to be due from Roosevelt county to Chaves and Gaudalupe counties respectively, on the first day of January, 1903, shall bear interest at the rate of six per cent. per annum from that date until the payment of the same in cash or in the taking of the bonds and coupons above provided for; and this amount of interest shall be added to the debts evidenced by the issuance of said bonds, and be included therein.

Sec. 8. The County of Roosevelt may issue bonds for court house purposes to an amount not exceeding twenty-five thousand dollars (\$25,000.), and for jail purposes to an amount not exceeding five thousand dollars (\$5,000.00), and for current expenses, until taxes are levied and collected to an amount not exceeding five thousand dollars (\$5,000).

Sec. 9. Roosevelt county shall be entitled to have and receive all unpaid taxes for the year A. D. 1902, and prior thereto, which taxes have been levied or assessed upon or against property within the former limits of Chaves and Guadalupe counties and which by this act are set off from said counties of Chaves and Guadalupe and has become Roosevelt county; and the treasurer and collector of Roosevelt county shall collect and receipt for the same to the same extent as the respective treasurers and collectors of Chaves and Guadalupe counties might have done had said property remained within the limits of the Counties of Chaves and Guadalupe, and Roosevelt county shall be entitled to and shall receive from Chaves and Guadalupe counties respectively such proportion of the moneys received from licenses issued by said Chaves and Guadalupe counties in force in Roosevelt county during any part of the year A. D. 1903, as such unexpired term of each such license shall bear to the whole term for which such license was issued; and all taxes collected from Roosevelt county and paid into the respective treasuries of Chaves and Guadalupe counties after January 1st, 1903, shall be credited upon the proportion of the respective debts of Chaves and Guadalupe counties assumed and to be paid by Roosevelt county. All school funds in the respective treasuries of Chaves and Guadalupe counties on April 1st, 1903, due to the school districts of Roosevelt county, whether apportioned or unapportioned, shall be on said date or immediately thereafter paid over by such treasurers to Roosevelt county.

Sec. 10. On or before the first day of May, A. D. 1903, the treasurers and ex-officio collectors of the Counties of Chaves and Guadalupe shall deliver to the county commissioners of Roosevelt county a list of all the delinquent taxes and unpaid licenses and also a list of all taxes which will become due on July first, A. D. 1903, upon property within the limits of and upon personal property belonging to persons resident within the limits of Roosevelt county, and the treasurer and ex-officio collector of Roosevelt county shall proceed and collect said taxes and licenses as required by law and they shall become and be the funds of Roosevelt county.

Sec. 11. Said Roosevelt county is hereby attached to the fifth judicial district of the Territory of New Mexico for judicial purposes, and district court for the trial of causes

arising under the laws of the Territory of New Mexico shall be held at the county seat of said county by the judge of said court, beginning on the third Monday of March and the third Monday of October in each year, there being a sufficient amount of the court fund in said county therefor, and special terms of said court may be held when convened in accordance with law. The district attorney for the district of which Chaves county is a part shall be the district attorney for Roosevelt county until otherwise provided by law, and shall be entitled to a salary from said Roosevelt county of two hundred and fifty dollars (\$250) per annum, payable quarterly.

Sec. 12. The County of Roosevelt for legislative purposes shall be attached to the ninth council and the fifteenth house district until otherwise provided by law.

Sec. 13. Until the appointment and qualification of the county and precinct officers of Roosevelt county the county and precinct officers of the Counties of Chaves and Guadalupe shall continue to exercise authority as before this act, and shall have jurisdiction as heretofore.

Sec. 14. This act shall be in force from and after its passage.

CHAPTER 8.

AN ACT TO CREATE QUAY COUNTY. *A. S. for H. B. No. 49;* *Approved February 28, 1903.*

CONTENTS

- Sec. 1. Quay county. Creation. Boundaries.
- Sec. 2. County seat. Location. Public Building.
- Sec. 3. County commissioners. To divide county into precincts. To appoint precinct and school district officers.
- Sec. 4. County officers. Appointment by governor. Term of office.
- Sec. 5. Commissioners. To ascertain amount of indebtedness due to Guadalupe and Union counties. Of whom composed.
- Sec. 6. Bond issue. Purpose. Rate of interest. Maturity. Form.
- Sec. 7. Sale of bonds. Purpose. Provision for payment of interest. Sinking fund created.
- Sec. 8. Issue of bonds for court house and jail purposes, and for current expenses.
- Sec. 9. Unpaid taxes and licenses. Proportion to be credited on debt. School fund.
- Sec. 10. Delinquent taxes and unpaid licenses. List to be delivered to county commissioners.
- Sec. 11. Judicial district. Time for holding court. District attorney. Salary.
- Sec. 12. Legislative district.
- Sec. 13. County and precinct officers. Jurisdiction until when.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That there be and hereby is created a county,

to be known and called Quay county, out of that portion of the Territory of New Mexico included in the following boundaries as indicated by the United States Survey, to-wit: Commencing at the southwest corner of township five north, range twenty-seven east of the New Mexico Principal Meridian; thence north along the range line between townships twenty-six and twenty-seven east to a point of intersection with the southwest corner of the Pablo Montoya grant; thence along the south boundary of said grant to its intersection with the township line between townships eleven and twelve north; thence along said township line between townships eleven and twelve north to its intersection with the southeast corner of San Miguel county; thence north along said east boundary of San Miguel county to its intersection with the Third Standard Parallel north; thence east along said Third Standard Parallel north to its intersection with the Texas-New Mexico boundary line; thence south along the Texas-New Mexico boundary line to the point of its intersection with the First Standard Parallel north (projecting eastward); thence west along the First Standard Parallel north to southwest corner of township five north, range twenty-seven east, to the point of beginning.

Sec. 2. That the county seat of said County of Quay shall be established at the town of Tucumcari in said county; and that the board of county commissioners of said county (to be appointed or elected as hereinafter provided) shall select and designate the most proper and convenient place in said town for the erection of the public buildings of said County of Quay.

Sec. 3. The county commissioners appointed under this act, are authorized and empowered to divide said County of Quay into precincts and to appoint in each precinct and school district the officers provided by law, until after the first election.

Sec. 4. It shall be the duty of the governor of the Territory of New Mexico, on or before the first day of April, A. D. 1903, to appoint for the said County of Quay the county officers now provided by law for the counties of the territory, and the officers so appointed shall immediately thereafter qualify and enter upon the discharge of their duties as such officers, and the officers so appointed shall serve until the election and qualification of their successors, who shall be elected at the next general election for such officers and the governor shall likewise appoint officers to fill any vacancies caused by the failure of any such appointees to qualify as required by law.

Sec. 5. It shall be the duty of the auditor, treasurer and

solicitor general of the territory to assemble as a commission for that purpose and ascertain, on or before the first day of June, A. D. 1903, the total separate indebtedness of both Guadalupe and Union counties, from which Quay county is segregated, less cash on hand to meet such indebtedness, and the value of all permanent public improvements, excepting bridges remaining in said Counties of Guadalupe and Union; and also to ascertain from the assessment rolls for the year 1902 the value of all taxable property embraced within the limits of Quay county so taken from Guadalupe and Union counties; and thereupon to determine the amount of such indebtedness that may be due from Quay county to Guadalupe and Union counties respectively, less the amount of cash on hand in each of said counties to meet such indebtedness, as such conditions existed on the first day of January, 1903; and the amount so found to be due from Quay county to Guadalupe and Union counties respectively, by said commission shall be final and conclusive on each of said counties.

Sec. 6. For the purpose of enabling Quay county to pay to Guadalupe and Union counties the amounts of its obligations and debts to them respectively, as found and ascertained by the commission provided for in section 5 of this act, the board of county commissioners of Quay county is hereby directed and authorized to issue its coupon bonds of that county which bonds shall bear interest at the rate of six per cent. per annum. payable semi-annually; such bonds shall be payable absolutely twenty years from their date at the option of the said county ten years from their date; they shall be in amounts of one hundred dollars (\$100.00) each or in multiples thereof; they shall be signed by the chairman of the board of county commissioners, countersigned by the clerk of said board, attested by its seal and endorsed by the treasurer of the county, with the engraved signature of the clerk of the probate court of said county, on the coupons thereto attached, and shall be in form to be approved by the district attorney of the fourth judicial district of the Territory of New Mexico.

Sec. 7. Such bonds may be sold for cash, at not less than par, and out of the proceeds of such sale the indebtedness of Quay county to the said Counties of Guadalupe and Union, as found by said commission, shall be paid and satisfied in full; and if such sale cannot be made by the first day of January, A. D. 1904, then and in that case, such bonds and coupons attached shall be turned over to Guadalupe and Union counties in full settlement of the indebtedness of Quay county to Guadalupe and Union counties respectively, and it shall be

the duty of the board of county commissioners of Quay county to annually levy a tax sufficient to pay the interest coupons coming due semi-annually upon said bonds, and in addition a sufficient amount to create a sinking fund to pay said bonds when they become due; which sinking fund tax shall be levied annually from and after five years after the passage of this act; said bonds shall be the first issue by Quay county, and the levy for the payment of interest shall be the first made, and such bonds shall be known and designated as "Quay County Establishment Bonds." Such bonds shall be dated the first day of July, A. D. 1903, and the coupons shall become due and be payable semi-annually thereafter. The debt ascertained to be due from Quay county and Guadalupe counties respectively on the first day of January, 1903, shall bear interest at the rate of six per cent. per annum from that date until the payment of the same in cash or in taking of the bonds and coupons above provided for; and this amount of interest shall be added to the debts evidenced by the issuance of said bonds, and be included therein.

Sec. 8. The county of Quay may issue bonds for court house purposes and to an amount not exceeding twenty-five thousand dollars (\$25,000), and for jail purposes to an amount not exceeding five thousand dollars (\$5,000.00), and for current expenses, until taxes are levied and collected, to an amount not exceeding five thousand dollars (\$5,000.00).

Sec. 9. Quay county shall be entitled to have and receive all unpaid taxes that have been levied or assessed upon or against property within the former limits of Guadalupe and Union counties and which by this act are set off from said counties of Guadalupe and Union and has become Quay county; and the treasurer and collector of Quay county shall collect and receipt for the same to the same extent as the respective treasurers and collectors of Guadalupe and Union counties might have done had said property remained within the limits of the Counties of Guadalupe and Union, and Quay county shall be entitled to and shall receive from Guadalupe and Union counties respectively such proportion of the moneys received from licenses issued by said Guadalupe and Union counties in force in Quay county during any part of the year 1903, as such unexpired term of each such license shall bear to the whole term for which such license was issued; and all taxes collected from Quay county and paid into the respective treasuries of Guadalupe and Union counties after January first, 1903, shall be credited upon the proportion of the respective debts of Guadalupe and Union counties assumed and to be paid by Quay county. All school funds in the respective treasuries of Guadalupe and Union counties on April

first, 1903, due to the school districts of Quay county whether apportioned or unapportioned, shall be on said date or immediately thereafter paid over by such treasurers to Quay county.

Sec. 10. On or before the first day of May, A. D. 1903, the treasurers and ex-officio collectors of the Counties of Guadalupe and Union shall deliver to the county commissioners of Quay county a list of all delinquent taxes and unpaid licenses and also a list of all taxes which will become due on July first, A. D. 1903, upon property within the limits of and upon personal property belonging to persons resident within the limits of Quay county, and the treasurer and ex-officio collector of Quay county shall proceed and collect the said taxes and licenses as required by law and they shall become due and be the fund of Quay county.

Sec. 11. Said Quay county is hereby attached to the fourth judicial district of the Territory of New Mexico for judicial purposes, and the district court for the trial of causes arising under the laws of the Territory of New Mexico shall be held at the county seat of said county by the judge of said court at a time appointed by the judge of said court in the same manner as special terms of the district court are now by law ordered and appointed, and the terms for the holding of district court shall be so held until otherwise provided by law. The district attorney for the fourth judicial district of which San Miguel county is a part shall be the district attorney for Quay county until otherwise provided by law and shall be entitled to a salary from said Quay county of two hundred and fifty dollars (\$250) per annum payable quarterly; and all indictments for offenses committed prior to the passage of this act within the limits of Quay county shall be when found, presented and returned by the grand juries of the district court of said Quay county.

Sec. 12. The County of Quay for legislative purposes shall be attached to———council and the———house district until otherwise provided by law.

Sec. 13. Until the appointment and qualification of the county and precinct officers of Quay county the county and precinct officers of the Counties of Guadalupe and Union shall continue to exercise authority as before this act, and shall have jurisdiction as heretofore.

Sec. 14. This act shall be in force from and after its passage.

CHAPTER 9.

AN ACT IN RELATION TO MAYORS OF CITIES, AND TO OTHER OFFICERS. *C. S. for C. B. No. 44; Approved February 28, 1903.*

CONTENTS

- Sec. 1. Term of office of mayor, clerk, treasurer, aldermen and board of education.
Sec. 2. Extension of term of office. Date of next election.
Sec. 3. Election of city officers, aldermen and board of education. Term of office.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter in the cities the term of office of mayor, clerk and treasurer shall be two years, the term of office of the aldermen and the council of cities shall be two and four years, and the terms of office of members of the board of education of cities shall be two and four years.

Sec. 2. The mayors, clerks and treasurers of cities, the aldermen of the council of cities, and the members of the boards of education of cities, now in office, shall remain in office until their successors are elected and qualified at the annual election to be held on the first Tuesday in April, 1904, and there shall be no election held for the election of any of the above named officers in any city in the Territory of New Mexico, on the first Tuesday of April, 1903.

Sec. 3. The qualified electors of cities shall on the first Tuesday of April, 1904, elect one mayor, one clerk, and one treasurer, for the term of two years, and two aldermen of the city council from each ward, one of whom in each ward shall be elected for the term of two years, and the other for the term of four years, and shall elect two members of the board of education from each ward, one of whom in each ward shall be elected for the term of two years and the other for four years.

Sec. 4. This act shall take effect and be in full force from and after its passage.

CHAPTER 10.

AN ACT FOR THE RELIEF OF A. B. BACA FOR SERVICES IN PURSUING, ARRESTING AND RETURNING TO THE JAIL OF SANTA FE COUNTY, JOSE TELLES, AN ESCAPED PRISONER ACCUSED OF MURDER. *H. B. No. 91; Approved February 28, 1903.*

CONTENTS

Sec. 1. Appropriation for A. B. Baca.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. There be and is hereby appropriated out of any moneys in the territorial treasury, not set apart for the payment of interest on the public debt, the sum of five hundred dollars (\$500) to be paid to A. B. Baca of the County of Socorro, in full payment to him for his expenses and services in pursuing, arresting and returning to the jail of Santa Fe county, Jose Telles, an escaped prisoner therefrom, who had been therein confined under the charge of murder. And the auditor of the territory is hereby authorized and directed to draw his warrant on the treasurer of the territory in favor of said A. B. Baca for said amount, out of which said A. B. Baca shall refund to the sheriff of Santa Fe county any amount which said sheriff may have advanced to him to defray his said expenses.

Sec. 2. This act shall be in force and effect from and after its passage.

CHAPTER 11.

AN ACT TO PROVIDE FOR THE BURIAL OF HONORABLY DISCHARGED SOLDIERS, SAILORS OR MARINES WHO MAY HERE-AFTER DIE WITHOUT LEAVING MEANS SUFFICIENT TO DEFRAY FUNERAL EXPENSES. *A. C. B. No. 6; Approved February 28, 1903.*

CONTENTS

- Sec. 1. Board of county commissioners. Duty. funeral expenses.
- Sec. 2. Funeral arrangements. Marking of grave. Probate clerk to keep record.
- Sec. 3. Bills to be sworn to and audited.
- Sec. 4. Fraud. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. It shall be the duty of the boards of county

commissioners in the several counties of this territory to cause to be decently interred the body of any honorably discharged soldier, sailor or marine who served in the army or volunteer service of the United States during any war in which the United States has been engaged, and who may hereafter die without having means sufficient to defray his funeral expenses. Such burial shall not be made in any "Potters Field" or pauper burial ground, nor in any cemetery used exclusively for the burial of pauper dead, and the expenses of any such funeral shall be paid by the county out of the general fund; but not more than fifty dollars (\$50) shall be expended for any such burial.

Sec. 2. Should any surviving relative or relatives or immediate friends, or any Grand Army Post of which deceased was a member, desire to conduct such funeral, they shall be permitted to do so, and the expenses herein provided for shall be paid as specified in section 1 of this act, and the grave of the deceased shall be properly marked and designated, and a record of the name, age, service and death shall be made in a book to be kept for that purpose by the probate clerk.

Sec. 3.—All bills for the expenses of any such burial shall be duly sworn to, and the said bills shall be audited and ordered paid to the amount of not more than fifty dollars (\$50) by the board of county commissioners of the county wherein such soldier, sailor or marine resided at the time of his death, and in such manner as other bills are allowed and paid from the general county fund.

Sec. 4. Any person presenting a false, fictitious or fraudulent bill for the purpose herein specified, or who attempts to have audited and paid any false, fictitious or fraudulent bill on account of any such purpose, sworn to as herein required, shall be deemed guilty of perjury and punished accordingly, and any county commissioner who shall knowingly order paid any such false fictitious or fraudulent bill or account, shall be deemed guilty of malfeasance in office and punished by a fine of not more than five hundred dollars (\$500.00), or imprisonment in the county jail not to exceed six months, and removal from office.

Sec. 5. This act shall take effect from and after its passage.

CHAPTER 12.

AN ACT FIXING THE FEES OF THE DISTRICT ATTORNEY FOR THE COUNTIES OF COLFAX AND UNION. C. B. No. 60; Approved February 28, 1903.

CONTENTS

Sec. 1. Change of salary.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter the district attorney for the Counties of Colfax and Union, in addition to the salary now paid him by the territory and the fees received by him for the prosecution of civil and criminal actions, shall be paid the sum of four hundred dollars (\$400.00) by the County of Colfax and the sum of three hundred (\$300.00) from the County of Union, per annum, payable quarterly.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 13.

AN ACT WITH REFERENCE TO TAXATION BY MUNICIPAL CORPORATIONS, GIVING TO CITIES AND TOWNS THE POWER TO LEVY A SPECIAL TAX FOR WATER AND LIGHT PURPOSES. A. C. B. No. 45; Approved February 28, 1903.

CONTENTS

Sec. 1. Cities or towns may levy a special tax for water and light purposes. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever the right to build, maintain and operate works for the supplying of water and lights has been, or may be granted to individuals or corporations in cities or towns in this territory and any such cities or towns have contracted, or shall contract with such individuals or corporations for supplying water and lights for public or municipal purposes, such city or town may levy each year and cause to be collected a special tax sufficient to pay the amounts so agreed to be paid for the supplying of water or lights, not exceeding the sum of four (4) mills for water and two (2) mills for lights on the dollar for any one year: *Provided*, that this shall not authorize any increase in the total

amount of taxes now authorized to be carried by such cities and towns, but such total taxes for all purposes shall remain as now enacted by law.

Sec. 2. All acts and parts of acts in conflict with this act are repealed, and this act shall be in force from and after its passage.

CHAPTER 14.

AN ACT CONFERRING ADDITIONAL DUTIES AND POWERS UPON MAYORS OF CITIES AND TOWNS. *A. C. B. 5; Approved February 28, 1903.*

CONTENTS

Sec. 1. Ordinances or acts of city council to be endorsed "approved" or "disapproved" by the mayor.

Sec. 2. Passing of ordinances over mayor's veto.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter no resolution, ordinance or other legislative action of the council of cities or the trustees of towns shall be valid and effective unless endorsed "Approved" by the mayor, with his official signature, except as herein-after stated. If the mayor disapprove of any such resolutions, ordinances, or other legislative action of the council of cities or boards of trustees of towns, he shall endorse upon the same within three days after the adoption thereof "Disapproved," and sign his name under such endorsement.

Sec. 2. If any ordinance, resolution or other legislative action, of the council of cities or boards of trustees of towns has been by the mayor disapproved, the same may be reconsidered by the council or board of trustees at its next regular meeting or at the next meeting at which a quorum is present, and after such reconsideration two-thirds of the members of the council of cities or boards of trustees present, voting, agree to pass such ordinance, resolution, or other legislative action, then the mayor shall declare the same to have been passed, and the same shall become a valid ordinance or resolution.

Sec. 3. This act shall take effect from and after its passage.

CHAPTER 15.

AN ACT RELATING TO THE DISTRIBUTION OF THE WATER OF
DITCHES BY COMMISSIONERS OR SUPERINTENDENTS. *A.*
H. B. No. 56; Approved March 4, 1903.

CONTENTS

- Sec. 1. Ditch commissioners. Meeting. Duties.
Sec. 2. Election of chairman and secretary. Term of office. Duty of secretary.
Sec. 3. Distribution of water.
Sec. 4. Failure of water commissioner or superintendent to perform prescribed duties. Penalty.
Sec. 5. Act not to apply to ditches from Rio Grande.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. From and after the passage of this act, it shall be the duty of all the ditch commissioners of the Territory of New Mexico, where two or more ditches are constructed from and supply waters from the same source or river and within the limits of a precinct, to have a meeting on the first Monday of April of each year for the purpose of making a true, just and equitable apportionment and distribution of the water for their respective ditches, and it shall be the duty of the superintendents of said ditches respectively to apportion and distribute the water in said ditches among the persons entitled thereto to the use of the same, in accordance with the orders of said ditch commissioners and not otherwise.

Sec. 2. In the meeting of said ditch commissioners, a majority of the persons elected as such shall constitute a quorum for the transaction of business, to carry out the purposes of this act. They shall elect a chairman and secretary from among their number. The chairman and secretary thus elected shall hold their positions during their term of office as ditch commissioners, and it shall be the duty of the secretary to keep in a proper book all of the proceedings of the meeting and to furnish the respective superintendents with a certified copy of the rules and regulations adopted at said meeting for the apportionment and distribution of the water free of cost.

Sec. 3. The said apportionment and distribution of the water shall be made in accordance with the rights of each ditch, and in proportion to the lands irrigated by each ditch.

Sec. 4. If any superintendent or water commissioner, neglects or refuses to discharge the duties required of him by this act, he shall be fined for each offense in a sum not of exceed ten dollars (\$10.00) recoverable before any justice of

the peace in the county; and the moneys thus recovered from said fines, shall be paid to the county treasurer, to be applied to the school fund of the district where said offense is committed.

Sec. 5. Nothing in this act shall be construed as applying to the community or other ditches constructed from and conveying waters from the Rio Grande.

Sec. 6. All acts and parts of acts in conflict with this shall be repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER 16.

AN ACT TO AMEND SECTION 1 OF CHAPTER 74 OF THE SESSION LAWS OF 1901, ENTITLED "AN ACT TO AMEND THE FIRST SUBDIVISION OF SECTION 4141 OF THE COMPILED LAWS OF 1897, RELATING TO PEDDLERS." *H. B. No. 95; Approved March 5, 1903.*

CONTENTS

Sec. 1. Section 1. Chapter 74, Laws of 1901. Regarding peddlers, Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 1 of chapter 74 of the Session Laws of 1901 is hereby amended to read as follows: "All persons who may engage in any itinerant trade, by sample or otherwise, selling at retail to individual purchasers who are not dealers in the article sold, except in the selling of maps, books, newspapers, fuel, fruits and domestic machinery, shall be considered peddlers within the meaning of this act."

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 17.

AN ACT ENTITLED "AN ACT TO ENCOURAGE THE ESTABLISHMENT OF SANITARIUMS IN THE TERRITORY OF NEW MEXICO." *H. B. No. 149, Approved March 5, 1903.*

CONTENTS

Sec. 1. Certain sanitariums exempted from taxation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any company or corporation which shall, within

the period of one year from the passage of this act, commence, and within the period of two years from and after the passage of this act shall have expended at least the sum of one hundred thousand dollars (\$100,000.00) in the erection or construction of a sanitarium for the care of invalids and those persons afflicted with tuberculosis and other pulmonary diseases, in this territory, shall, thereafter, be exempt from taxation upon all property actually used for or in connection with such sanitarium for a period of six years from and after the expiration of two years after the passage of this act. and unless the said expenditure be fully made as stated herein, then and in that case this act shall be null and void and of no effect.

Sec. 2. This act shall take effect thirty days after its passage.

CHAPTER 18.

AN ACT IN RELATION TO THE PAYMENT OF TAXES BY THE SANTA FE PACIFIC RAILROAD COMPANY. H. B 81; *Approved March 7, 1903.*

CONTENTS

- Sec. 1. Tax, as fixed by act of Congress, upon property of Santa Fe Pacific Railroad company, to be paid collectors of Bernalillo, Valencia and McKinley counties. Form of tax receipts.
- Sec. 2. Tax collected to be distributed to various funds.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Whereas, pursuant to the terms of an act of the Congress of the United States, entitled "An Act authorizing the Santa Fe Pacific Railroad company to sell or lease its railroad property or franchises, and for other purposes" approved June 27, 1902. it is provided that the said Santa Fe Pacific Railroad company, its successors or assigns, shall pay an annual tax at the rate of one hundred and seventy-five dollars (\$175.00) per mile to the Territories of New Mexico and Arizona, respectively, for each mile of main track in said territories, respectively, the same to be apportioned among the counties of said territories in which said railroad is located according to the mileage in each county, said taxes so fixed by said act being in lieu of all other taxes upon the property mentioned in said act of congress, excepting the land grant and the shops situate at Albuquerque, New Mexico, including the machinery therein and the lands upon which the said shops are situate; and

Whereas, it is provided by said act of congress that said tax shall be paid to each of said territroies, but does not specify how or to what officers of the territory the same shall be paid;

Now Therefore, Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The said tax upon the property of the Santa Fe Pacific Railroad company, as fixed by the act of Congress, approved June 27, 1902, shall be paid by said railroad company, its successors or assigns, to the collector of the Counties of Bernalillo, Valencia and McKinley, respectively, at the time and in the same manner as other taxes are paid in this territory, proportionately according to the number of miles of main track of said Santa Fe Pacific Railroad company lying and being in each of said counties, respectively, and the said collector of taxes shall make and issue to said railroad company, its successor or assigns, his receipt for all taxes paid to him under the provisions of this act in the same manner as tax receipts are now issued by collectors of taxes under the laws of this territory.

Sec. 2. Upon the payment to the collector of the counties hereinbefore named of the total amount of the tax due to said county under the provisions of the said act of congress, the said collector shall distribute the same to the several funds, territorial, county, school, municipal, town and city, as well as all interest funds, using as a basis for such distribution the several levies as annually made by authority of law for the above enumerated purposes.

Sec. 3. This act shall take effect and be in force from and after its passage.

CHAPTER 19.

AN ACT ENTITLED "AN ACT DIRECTING THE TERRITORIAL TREASURER TO TRANSFER CERTAIN FUNDS TO PENITENTIARY ACCOUNT." *H. B. No. 70; Law by Limitation, March 9, 1903.*

CONTENTS

Sec. 1. Five thousand dollars (\$5,000) transferred to general maintenance fund of penitentiary.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The territorial treasurer is hereby directed to

transfer from any funds in the treasury, the sum of five thousand dollars (\$5,000.00) and place the same to the credit of the general maintenance fund of the penitentiary.

Sec. 2. This act shall be in full force from and after its passage.

CHAPTER 20.

AN ACT IN RELATION TO COUNTIES AND COUNTY INDEBTEDNESS. *C. B. No. 111; Approved March 10, 1903.*

CONTENTS

- Sec. 1. Counties or parts of counties, having outstanding indebtedness, not to be released from taxation, when taken to form a new county or add to area of old county. Duty of commissioners in levying and collecting taxes. Proviso.
- Sec. 2. Moneys collected by collector of new county to be paid to treasurer of county from which territory is taken.
- Sec. 3. Entire county, having outstanding indebtedness, taken to form new county, not released from indebtedness. County commissioners to make levy.
- Sec. 4. Failure of commissioners, assessors or collectors to make levy and collect taxes. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Whenever a part of the territory embraced within the limits of any county of this territory having outstanding indebtedness, bonded or otherwise, is taken to form a new county or to add to the area of a county already in existence, nothing in the act shall be construed to release any of the citizens or property, subject at that time or which may thereafter become subject to taxation within the exterior boundaries of the territory so taken, unless such indebtedness has been otherwise provided for, and the board of county commissioners of such new county or of the county to which such territory has been added is hereby authorized and required to levy annually a tax which shall be assessed and collected by the assessor and collector at the time and in the manner that other taxes are assessed, levied and collected in said county upon all the citizens and residents and property subject or which may thereafter become subject to taxation within the limits of the territory so taken as the same legally existed and is established at the time the said territory is taken: *Provided*, that said tax shall be uniform between the county gaining and the county losing the territory. The board of county commissioners of the county whose territory has been taken shall notify the board of county

commissioners of such new county to which territory has been added of the amount of the levy and for the purposes above specified immediately upon the same being made; and no adjournment of either board of county commissioners, when convened for making the levies for the purposes of taxation, shall be had until the levy herein provided for shall have been made.

Sec. 2. All moneys collected by the collector of such new county or of the county to which said territory has been added pursuant to the levy and assessment provided for in section 1 of this act, shall be paid to the treasurer and collector of the county from which territory was taken, on or before the fifteenth day of each month.

Sec. 3. Should an entire county having an outstanding indebtedness, bonded or otherwise, be taken so as to form a new county or be absorbed into another county already existing, it is hereby made the duty of the board of county commissioners of such new county, or of the county into which such entire new county may have been absorbed, annually to levy a tax which shall be assessed and collected by the assessor and collector of said county at the time and in the manner that other taxes are levied, assessed and collected in said county, unless such indebtedness has been otherwise provided for, upon all citizens, residents and property now subject or which may herein be subject to taxation within the limits of the county so taken or absorbed as herein mentioned sufficient to pay the interest or principal or both of such outstanding indebtedness in the same manner and to the same extent as was or would be required of the county commissioners of the county so taken or absorbed had the same not been taken or absorbed.

Sec. 4. Any member of the board of county commissioners of any county or any assessor or collector or other officer charged with the levy, assessment or collection of taxes who shall fail to perform the duties provided for in this act, shall, upon complaint made to the governor of this territory of the fact of such failure, be forthwith removed from office.

Sec. 5. This act shall take effect and be in force from and after its passage.

CHAPTER 21.

AN ACT TO PREVENT INJURY TO DITCHES, PIPE LINES, RESERVOIRS AND THE TAKING OF AND BEFOULING OF WATER THEREFROM. *A. C. B. No. 68; Approved March 10, 1903.*

CONTENTS

- Sec. 1. Unlawful to wilfully and maliciously injure ditch, pipe line, flume or reservoir. Misdemeanor. Penalty in case water is to be used for domestic purposes.
- Sec. 2. Unlawful to bathe in or befoul waters for domestic use. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any person who shall wilfully and maliciously cut, break or injure, or who shall by shooting or by damaging or obstructing the same cause to break, or injure any ditch, flume, pipe line, or reservoir, belonging to another, or any of the attachments or fixtures used in connection therewith, shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), or by confinement in the county jail for not more than sixty days, or by both such fine and imprisonment in the discretion of the court trying the case, except in cases where such pipe line or reservoir is used for the purpose of supplying water to any community, village, town or city for domestic purposes, in which event the person committing such offense shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail not less than thirty, nor more than sixty days, or by both such fine and imprisonment in the discretion of the court trying the case.

Sec. 2. Any person who shall bathe in, or wilfully cast any filth in, any reservoir or ditch used for supplying water for domestic use, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars (\$10.00) or not more than twenty-five dollars (\$25.00).

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER 22.

AN ACT AUTHORIZING THE CONSOLIDATION OF BENEVOLENT, CHARITABLE AND SCIENTIFIC ASSOCIATIONS. C. B. No. 35:
Approved March 10, 1903.

CONTENTS

Sec. 1. Benevolent, charitable and scientific associations, having no capital stock may consolidate. Three-fourths of board of directors must give written consent. Notice of consolidation to be published. Articles of incorporation to be filed with Secretary of Territory.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. All benevolent, charitable and scientific associations or incorporations, incorporated under the laws of the Territory of New Mexico, and having no capital stock, may consolidate their debts, property, assets and franchises with any other like association or corporation, either created under the laws of the Territory of New Mexico or under the laws of any other state or territory, in such manner as may be agreed upon by the respective boards of directors or trustees of such corporations. No such consolidation must take place without the written consent of three-fourths of the board of directors or trustees of the corporations, and such consolidation must not in any way relieve such corporation or corporations from any and all just liabilities. In case of such consolidation, due notice of the same must be given, by advertisement for one month in at least one newspaper published at the principal place of business of the corporations consolidating. When the consolidation is completed, a copy of the new articles of incorporation must be filed with the secretary of state or of the territory in the same manner as original articles of incorporation are required to be filed.

Sec. 2. This act shall take effect and be in force from and after its passage

CHAPTER 23.

AN ACT PROVIDING FOR THE WRITING AND PUBLISHING OF THE HISTORY OF NEW MEXICO. C. B. No. 98; Approved March 10, 1903.

CONTENTS

Sec. 1. History of New Mexico to be written by J. Franco. Chaves. Adoption as a text book.

Sec. 2. Appropriation for preparation of work.

Sec. 3. Distribution of proceeds of sales.

Sec. 4. Adoption as text book. Territorial board of education to let contract for publication and fix price per volume.

Whereas, it is desirable and essential that the history of the Territory of New Mexico should be preserved in a substantial and beneficial form for the benefit of the present and future generations of the people of the territory, and that the youth of the country should be instructed in reference thereto: Now, therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That J. Franco. Chaves, of Valencia county, be, and he hereby is designated and selected to write and prepare for publication an accurate and correct history of this territory, and to prepare and condense therefrom a text book of such history, to be hereafter passed upon and accepted and adopted as such text book, for use in the common schools of this territory.

Sec. 2. That for the purpose of aiding in the work of preparation of said history, the said J. Franco. Chaves is hereby authorized to employ such clerical help and assistance as he may deem advisable, and there is hereby appropriated, for the payment of the expenses of the said J. Franco. Chaves while engaged in said work, the sum of fifty dollars (\$50.00) per month, and for the payment of said clerical assistance the sum of seventy-five dollars (\$75.00) per month, for the 54th and 55th fiscal years, payable out of the territorial salary fund.

Sec. 3. That the proceeds of all sales of such history, when prepared and published, shall belong to the Territory of New Mexico, until the amounts so paid to the said J. Franco. Chaves for expenses and clerical help shall be reimbursed to the territory, and thereafter the proceeds of all sales of said history and text books, after deducting therefrom the cost of the publication thereof, shall belong to the said J. Franco. Chaves, and be paid to him as such sales are made.

Sec. 4. That such text book of the history of New Mexico, so condensed as above provided, for use in the common schools, shall not be considered adopted by the territory until after the same shall have been submitted to and approved by the board of education of this territory, which board shall be authorized to enter into a contract with the lowest bidder for the printing and binding thereof, to be supplied by the publisher to the educational authorities of the territory, from time to time, in such quantities as the necessities of the common schools may demand; and such board of education shall have authority to and shall fix the price per

volume at which the same shall be supplied to said common schools, including a reasonable royalty upon each volume thereof, in addition to the cost of publication and binding thereof, which royalty shall be paid to the said J. Franco. Chaves, or his heirs, or in accordance with his order.

Sec. 5. This act shall take effect from and after its passage, and the payments herein provided for the expense of carrying on the said work shall commence from such time as the said J. Franco. Chaves shall enter upon the preparation of said history

CHAPTER 24.

AN ACT CHANGING THE BOUNDRY OF RIO ARriba COUNTY BY ADDING THERETO A PORTION OF SANTA FE COUNUY. C. B. No. 63; Law by Limitation, March 10, 1903.

CONTENTS

Sec. 1. Precinct 16, Espanola, detached from Santa Fe county and attached to precinct 7 of Rio Arriba county.

Sec. 2. Officers of precinct 7 of Rio Arriba county to have jurisdiction over precinct attached.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That all of precinct number sixteen of Santa Fe county, known as Espanola precinct, be and the same is hereby detached from Santa Fe county and made a part of Rio Arriba county and attached to precinct number seven of said Rio Arriba county.

Sec. 2. The precinct officers for precinct number seven of Rio Arriba county now serving shall have jurisdiction over the territory attached to said precinct by this act.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed; and this act shall be in full force and effect thirty days after its passage.

CHAPTER 25.

AN ACT TO AMEND SECTION 7 OF CHAPTER 47 OF THE SESSION LAWS OF NEW MEXICO, 1901, BEING AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE APPOINTMENT OF A POLICE FORCE IN UNINCORPORATED COUNTY SEATS HAVING A POPULATION OF MORE THAN THREE THOUSAND, AND FOR OTHER PURPOSES," APPROVED MARCH 19, 1901. *C. B. No. 65; Approved March 10, 1903,*

CONTENTS

Sec. 1. Section 7, Chapter 47, Laws of 1901, regarding impounding of live stock, Amended. •

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 7 of an act entitled "An Act to provide for the appointment of a police force in unincorporated county seats having a population of over three thousand, and for other purposes," approved March 19th, 1901, be amended by inserting in the fourth line of said section, immediately following the word "park," the words "street, alley, avenue, or any other public thoroughfare," and by inserting immediately following the word "park" at the end of the seventh line of said section, the words "street, alley, avenue, or any other public thoroughfare."

Sec. 2. This act shall be in full force and effect from and after its passage

CHAPTER 26.

AN ACT TO REPEAL SECTION 1 OF CHAPTER 82, AND CHAPTER 99, SESSION LAWS OF 1901. *C. B. No 15; Approved March 10, 1903.*

CONTENTS

Sec. 1. Section 1, Chapter 82, Laws of 1901, and Chapter 99, Laws of 1901, regarding appeals and writs of error and practice in supreme court. Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1 of chapter 82, Session Laws of New Mexico, approved March 21st, 1901, and chapter 99 of the same laws, approved on the same day, being acts in regard to appeal and writs of error and concerning practice in the supreme court, being the same, are hereby repealed in all their parts and provisions.

Sec. 2. This act shall take effect and be in force from and after its passage

CHAPTER 27.

AN ACT TO CREATE THE COUNTY OF SANDOVAL. *C. B. No. 102. Approved March 10, 1903.*

CONTENTS.

- Sec. 1. Sandoval county created. Boundaries.
- Sec. 2. County officials. Election and returning board. Duties.
- Sec. 3. Election of county officers of Bernalillo county. Notice by county commissioners.
- Sec. 4. Registration lists in Bernalillo and Sandoval counties.
- Sec. 5. County seat. Special election to be held for the selection.
- Sec. 6. County officials. Election and returning board. Duties.
- Sec. 7. County of third class. Salaries of officers.
- Sec. 8. Legislative representation of Counties of Bernalillo, Sandoval and McKinley.
- Sec. 9. Assignment of county to judicial district and fixing term of holding court. District Attorney. Salary.
- Sec. 10. Precinct and school district officers.
- Sec. 11. Proportion of indebtedness of Bernalillo county to be paid by Sandoval county. Commission to adjust indebtedness.
- Sec. 12. Bond issue to provide for payment of indebtedness. Form. Maturity. Rate of interest.
- Sec. 13. Sale of bonds. Provision for the payment of interest and principal. Creation of sinking fund.
- Sec. 14. Unpaid taxes and licenses.
- Sec. 15. Issue of bonds for court house and jail purposes, and current expenses. Rate of interest. Form.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That a county be and the same is hereby created and established in the Territory of New Mexico, to be known as the County of Sandoval, which shall include all that portion of the present County of Bernalillo lying north of a line beginning at the southeast corner of township twelve north, range six east of the New Mexico Principal Meridian, and running thence due west on the township line between townships eleven and twelve north, to the boundary line between the present County of Bernalillo and the County of Valencia.

Sec. 2. The county officers for the said County of Sandoval and their duties shall be the same as those prescribed by law for officers of other counties in the Territory of New Mexico, and they shall be elected at the same time and in the same manner as the officers of other counties in New Mexico. On or before the first day of April, 1903, the governor of the Territory of New Mexico shall appoint three qualified persons who shall be legal voters within the limits of said County of

Sandoval, as an election and returning board. The members of said returning board before entering upon the discharge of their duties shall take an oath before some officer duly qualified to administer the same, which oath shall be that prescribed for county commissioners, and shall be in writing, and after having executed the same, it shall be filed by the members with the secretary of the territory, who shall thereupon send the said returning board registration lists, poll books and all other blanks which are sent by him to county commissioners of organized counties for the purpose of conducting elections therein. It shall be the duty of such returning board to appoint judges and clerks of election, and to call and give notice of the holding of a special election to be held on the fourteenth day of April, 1903, and said persons so appointed shall have the same power and authority as to receiving, canvassing and certifying the returns of the said special election to be held on the said fourteenth day of April, 1903, as is now conferred by law upon the boards of county commissioners of the several counties of the territory. Such members of such returning board shall serve as such without compensation and their functions shall cease with the election of a board of county commissioners of said County of Sandoval.

Sec. 3. On or before the first day of April, 1903, the county commissioners of the present County of Bernalillo shall give notice of an election to be held on the fourteenth day of April, 1903, within the County of Bernalillo as the same will be constituted after the passage of this act, for the election of two county commissioners, one probate judge and one assessor, to serve until their successors are elected and qualified at the next general election. Said officers so named in this section to be at the time of said election actual bona fide residents of the said County of Bernalillo as the same shall be constituted after the passage of this act. The returns of said election to be made as the returns of general elections are made.

Sec. 4. The registration lists of the last general election held in the County of Bernalillo shall be used in the special elections in the Counties of Bernalillo and Sandoval, herein provided to be held.

Sec. 5. At said special election, to be held as hereinbefore provided, in the County of Sandoval, on the fourteenth day of April, 1903, there shall also be held an election for the selection of a county seat for said County of Sandoval, and upon the tickets used at said special election there shall be printed the words "For _____ as county seat", and the place in the said County of Sandoval receiving the majority

of said votes at said special election shall be and remain the county seat of said County of Sandoval.

Sec. 6. The county officers for the said County of Sandoval and their duties shall be the same as those prescribed by law for officers of other counties in the Territory of New Mexico, and they shall be elected at the same time and in the same manner as the officers of other counties in New Mexico. On or before the first day of April, 1903, the governor of the Territory of New Mexico shall appoint three qualified persons who shall be legal voters within the limits of said County of Sandoval, as an election and returning board. The members of said returning board before entering upon the discharge of their duty shall take an oath before some officer duly qualified to administer the same, which oath shall be that now prescribed for county commissioners, and shall be in writing, and after having executed the same, it shall be filed by the members with the secretary of the territory, who shall thereupon send the said returning board registration lists, poll books, and all other blanks which are sent by him to county commissioners of organized counties, for the purpose of conducting elections therein. It shall be the duty of such returning board to appoint judges and clerks of election, and to call and give notice of the holding of a special election to be held on April fourteenth, 1903, and said persons so appointed shall have the same power and authority as to receiving, canvassing and certifying of the returns of the said special election to be held on the said fourteenth day of April, 1903, as is now conferred by law upon the boards of county commissioners of the several counties of the territory. Such members of said returning board shall serve as such without compensation and their functions shall cease with the election of a board of county commissioners of said County of Sandoval.

Sec. 7. The said County of Sandoval with reference to salaries and compensation of officers shall be a county of the third class as defined in and provided for in chapter 60 of the Session Laws of 1897, compiled in the Compiled Laws of 1897, as pages 303 and 304, and the emoluments of the officers of said county shall be the same as are now provided for officers of counties belonging to said third class, as they are now or hereafter may be provided by law.

Sec. 8. For legislative purposes the said County of Sandoval shall have one representative alone; and the County of Bernalillo as herein constituted one representative alone; the County of Bernalillo as the same will be constituted under the provisions of this act, with the County of McKinley, shall have one representative; the Counties of Bernalillo, Sandoval and McKinley shall have one councilman jointly, and the

County of Bernalillo as the same will be constituted hereunder shall have one councilman.

Sec. 9. The said County of Sandoval is hereby attached for judicial purposes to the second judicial district, and a district court for the trial of causes arising under the laws of the territory shall be held twice a year by the judge of said court, at the county seat of Sandoval county, at such time as the judge may determine until regular terms of court therein shall be prescribed by law, and the district attorney for the Counties of Bernalillo, Valencia and McKinley, shall also act as district attorney for said County of Sandoval and his appointment shall include said county, and his salary from the County of Sandoval shall be the same as that paid by the County of McKinley.

Sec. 10. The precincts and school districts now existing in the territory included in the Counties of Sandoval and Bernalillo respectively, shall remain the same as now constituted until changed as provided by law, and the respective district and precinct officers shall continue in office until their successors are elected and qualified under the general laws of the territory.

Sec. 11. The auditor, treasurer and solicitor general of the territory shall constitute a commission for the purpose of ascertaining what portion of the public debt of Bernalillo county shall be assumed and paid by Sandoval county. They shall meet for that purpose on or before April fourteenth, 1903, and shall proceed to ascertain, first, the total indebtedness of Bernalillo county; second, the amount of money on hand applicable to the payment of any portion of said indebtedness; third, the value of all permanent public improvements, the property of the county, which will remain in Bernalillo county; fourth, the value of all permanent public improvements the property of the county, which will be within the limits of Sandoval county; fifth, the total amount of the valuation of property, for purposes of taxation, as shown by the assessment rolls for the year 1902, which will remain within the limits of the two counties, respectively. They shall then deduct from the total indebtedness of Bernalillo county the amount of money on hand as aforesaid, and the value of all permanent public improvements which will remain in Bernalillo county, and the remainder will be the amount of public indebtedness to be apportioned and divided between the two counties. They will then apportion and divide the said indebtedness between the two counties in the same proportion as the total valuations of property in the two counties, ascertained as aforesaid, may bear to each other, and to the portion assigned to Sandoval county shall be added the value

of all permanent public improvements, the property of the county, within the limits of said Sandoval county, and the sum thus obtained shall constitute the amount of such indebtedness to be assumed and paid by Sandoval county; and any money, bonds, securities or promises to pay issued by Sandoval county, for the payment of said portion of said indebtedness, shall be applied solely to the payment of the bonded indebtedness of the County of Bernalillo. The said commission shall keep a record of its proceedings, and shall furnish a certified copy thereof to each of said counties, and the award of said commission shall be final and conclusive on both counties.

Sec. 12. For the purpose of enabling Sandoval county to pay to Bernalillo county the amount of its obligation and debt as found and ascertained by the commission provided for in section 11 of this act, the board of county commissioners of Sandoval county is hereby authorized and directed to issue its coupon bonds of that county, which shall bear interest at the rate of five per cent. per annum, evidenced by coupon bonds, payable semi-annually; such bonds shall be payable absolutely twenty years from their date, and at the option of said county after ten years from their date. They shall be in sums of one hundred dollars (\$100.00), or some multiple thereof; they shall be signed by the chairman of the board of county commissioners, countersigned by the clerk of said board, attested by its seal and endorsed by the treasurer of the county, and shall be in form to be approved by the district attorney of the second judicial district.

Sec. 13. Such bonds may be sold for cash, at not less than par and the proceeds turned over to the said County of Bernalillo in full settlement of said debt; and if such sale cannot be made by the first day of January, 1904, then and in that case the said bonds and coupons attached shall be turned over to Bernalillo county in full settlement of said debt, but in no case shall said bonds and coupons ever be sold for less than par. And it shall be the duty of the board of county commissioners of Sandoval county to annually levy a tax sufficient to pay the interest coupons coming due semi-annually upon said bonds, and in addition a sufficient amount to create a sinking fund to pay said bonds when they become due. Said bonds shall be the first issued by said Sandoval county, and the levy for the payment of interest and to create a sinking fund shall be the first made, and such bonds shall be known and designated as "Sandoval County Establishment Bonds." Such bonds shall be dated the first day of July, 1903, and the coupons due and payable semi-annually thereafter.

The debt ascertained to be due from Sandoval to Bernalillo

lillo county on the fourteenth day of April, 1903, shall bear interest at the rate of five per cent. per annum from date until the payment of the same in cash or the taking of the bonds above provided for and this amount of interest shall be added to the debt evidenced by the issuance of said bonds, and be included therein from April fourteenth, 1903, and the five per cent. additional interest due to January first, 1904, shall be considered and treated as a current expense of Sandoval county and paid as such.

Sec. 14. Sandoval county shall be entitled to have and receive from the County of Bernalillo all unpaid taxes due after June first, 1903, which taxes have been levied upon or against property within the former limits of Bernalillo county and which by this act is cut off from Bernalillo county and becomes a portion of Sandoval county; and the treasurer and collector of said Sandoval county shall collect and receipt for the same to the same extent as the treasurer of Bernalillo county might have done had said property remained within the limits of said county. And Sandoval county shall be entitled to and shall receive from Bernalillo county, such portion of the moneys received from licenses issued by Bernalillo county, in force in Sandoval county during any part of the year 1903, as such unexpired term of each such license may bear to the whole term for which such license was issued. And all taxes already collected and paid into Bernalillo county for the year 1903, upon the persons and property situated within the limits and boundaries of Sandoval county, shall be credited upon the proportion of Bernalillo county debt accrued and to be paid by Sandoval county; and all penalties or interest accrued upon taxes due upon such property within the limits and boundaries of Sandoval county for the year 1903, are hereby transferred to that county, and its treasurer shall collect and receipt for the same as if they had originally accrued to said Sandoval county.

Sec. 15. For the purpose of enabling said County of Sandoval to provide for its current expenses until taxes may be levied and collected therein, said county is hereby authorized and directed to issue its current expense bonds to an amount not exceeding five thousand dollars (\$5,000.00), and for the purpose of erecting a suitable court house, bonds to the amount of not more than twenty-five thousand dollars (\$25,000.00), to be known as court house bonds, and for the purpose of erecting a suitable jail, bonds to the amount of five thousand dollars (\$5,000.00.) to be known as jail bonds. All such bonds shall bear interest at a rate of not to exceed six per cent. per annum, to be evidenced by interest coupons, and all such bonds shall be in the form and for the time

issued and sold and the proceeds disposed of in the manner provided in section 12 of chapter 38 of the Session Laws of 1901, being an act to create the County of Luna.

Sec. 16. This act shall take effect and be in force on and after the fourteenth day of April, 1903, at which date or as soon thereafter as qualified the first officers of said county elected at the special election of 1903 shall assume their respective duties and the said county shall be fully established as a county of the Territory of New Mexico, and the provisions herein contained providing for a returning board and its action in calling the election and canvassing the votes, and the method of ascertaining the debt of Sandoval county to Bernalillo county, shall take effect and be in force from and after the passage of this act.

CHAPTER 28.

AN ACT AUTHORIZING THE COMPILATION, PRINTING AND DISTRIBUTION OF THE SCHOOL LAWS. *S. for H. B. No. 83; Approved March 10, 1903.*

CONTENTS.

- Sec. 1. Superintendent of public instruction authorized to compile and have printed all school laws.
- Sec. 2. Appropriation for compilation and printing. Proviso.
- Sec. 3. Copies of printed school laws to be furnished to county school superintendents and chairmen of school directors.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the superintendent of public instruction shall cause to have compiled, and biennially, shall cause to have printed two thousand copies in English and two thousand in Spanish, in pamphlet form, of all existing school laws of the Territory of New Mexico, and such school laws as may be enacted by the 35th Legislative Assembly, and after each future Legislative Assembly, if any laws shall have been enacted pertaining to schools he shall, in the first issue of said pamphlets, thereafter, include any school laws that may have been enacted by any such future legislative assembly. In the meaning of this act such pamphlets shall embrace all such school laws in one copy. The first issue of pamphlets shall be compiled and printed, ready for distribution before the first day of July of the year 1903.

Sec. 2. The compilation and printing of the pamphlets herein referred to, shall be paid for from any funds in the hands of the territorial treasurer arising from the rental or leasing of the common school lands, and for this purpose the

territorial auditor is hereby directed and required to draw an order on the territorial treasurer in favor of the superintendent of public instruction for a sum not exceeding twelve hundred and fifty dollars (\$1,250.00): *Provided*, that the printing and binding authorized by this act shall be let to the lowest responsible bidder.

Sec. 3. It shall be the duty of the superintendent of public instruction of the territory, before the first day of August of each year, to forward a sufficient number of such pamphlets of compiled schools laws to the superintendent of schools of the several counties of the Territory of New Mexico. It shall be the duty of the county superintendent to place a copy of said pamphlets in the hands of the chairman of the directors of public schools in each and every district of said county.

Sec. 4. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER 29.

AN ACT RELATING TO POWERS OF PROBATE COURTS. *H. B.* *No. 137; Approved March 11, 1903.*

CONTENTS.

Sec. 1. Administrators required to turn over to beneficial owner, all interest held by him, which was held by intestate.

Sec. 2. All assignments validated as of date of action by probate court.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Where it is made to appear to the satisfaction of the probate courts that administrators of estates have in their power, custody or control personal property, chooses in action, notes, bills, judgments, or other evidences of indebtedness, the actual title and ownership of which was not in the intestate at the time of his demise but was held by him for the beneficial interest of some third person at such time, it is hereby made the duty of the probate courts to require the administrator to assign, set over and deliver the same to the beneficial owner.

Sec. 2. All assignments, settings over and deliveries of the properties mentioned in the first paragraph of this act heretofore required to be made by the probate courts, and all ratifications of such transfers heretofore made by said courts are hereby validated as of the date of the action of said probate courts.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after its passage.

CHAPTER 30.

AN ACT TO REPEAL SECTION 1271, COMPILED LAWS OF NEW MEXICO, AND FOR OTHER PURPOSES. *H. B. No. 29; Approved March 11, 1903.*

CONTENTS.

Sec. 1. Section 1271, Compiled Laws of 1897, regarding sale of liquor to Indians, Repealed.

Sec. 2. Sale of liquor to Indians. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 1271 of the Compiled Laws of 1897 is hereby repealed.

Sec. 2. Every person or persons who sells, exchanges, gives, barter or disposes of any spirituous or fermented liquors or wines to any Indian under the charge of any superintendent or Indian agent shall be punished by imprisonment for not more than two years and by a fine of not more than five hundred dollars (\$500.00).

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 31.

AN ACT TO AMEND SECTION 3850, COMPILED LAWS OF NEW MEXICO, 1897, RELATING TO PROCEEDINGS FOR CONDEMNATION. *H. B. No. 3; Approved March 11, 1903.*

CONTENTS.

Sec. 1. Sub-division second, Section 3850, Compiled Laws of 1897, regarding service of notice in condemnation proceedings, Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the second sub-division of section 3850 of the Compiled Laws of New Mexico of 1897, be and the same is hereby amended to read as follows:

"Second. If the person on whom such service is to be made

resides out of the territory and has a duly authorized agent residing in the territory, such service may be made on such agent, or on such person personally out of the territory; or it may be made by publishing the notice stating briefly the application and giving a description of the land to be taken, in some paper of general circulation printed in the county in which the land to be taken is situated, and if no paper is printed in the county in which such land is situated, then the paper published nearest to such county, once in each week for four weeks previous to the presentation of the petition; and if the residence of such person residing out of this territory is known, or can by reasonable diligence be ascertained, the company must in addition to such publication as aforesaid, deposit a copy of the petition and notice in the postoffice properly folded and directed to such person to the postoffice nearest his place of residence two weeks before presenting such petition to the court, and pay the postage chargeable thereon, to the United States."

Sec. 2. That this act shall be in force and effect from and after its passage.

CHAPTER 32.

AN ACT RELATIVE TO COMMUNITY DITCHES OR ACEQUIAS AND TO AMEND AND REPEAL CERTAIN SECTIONS OF THE COMPILED LAWS OF THE TERRITORY OF NEW MEXICO OF 1897 WITH REFERENCE THERETO. *H. B. No. 26; Approves March 11, 1903.*

CONTENTS.

- Sec. 1. Section 9, Compiled Laws of 1897, regarding officers of acequias, election and duties. Amended.
- Sec. 2. Section 10, Compiled Laws of 1897, regarding qualifications of voters for officers of acequias, Amended.
- Sec. 3. Section 11, Compiled Laws of 1897, regarding duties of officers of acequias, Amended.
- Sec. 4. Owners of acequias to labor as required by mayordomo. Penalty.
- Sec. 5. Commissioners of acequias may exempt persons from labor.
- Sec. 6. Interference with acequias. Penalty.
- Sec. 7. Compensation of mayordomo and commissioners.
- Sec. 8. Mayordomo. Penalty for neglect of duty.
- Sec. 9. Commissioners. Penalty for neglect of duty.
- Sec. 10. Appeal from justice of the peace court.
- Sec. 11. Judges of election for acequia officers in counties of first class.
- Sec. 12. Sections 12, 13, 30, 31, 32, 33, 34, 35 and 36, Compiled Laws of 1897, regarding management and control of acequias, Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 9 of the Compiled Laws of the

Territory of New Mexico of 1897, be and the same is hereby amended to read as follows:

"Sec. 9. The officers of said community ditches or acequias shall consist of three commissioners and one mayor-domo or superintendent, each of whom shall be the owner of an interest in said ditch or the water therein. Said officers shall be elected annually on the first Monday of October and shall assume the duties of their offices not later than the first Monday of the following November. On or before the first Monday of November aforesaid said commissioners shall organize by the election of one of their number as chairman, another as secretary, and the other as treasurer. The mayor-domo and the treasurer, separately, shall each give a bond to the territory in a sum to be fixed by said commissioners. The condition of said bonds to be for the accounting of all moneys coming into their hands by virtue of their respective offices and for the faithful performance of their respective duties. Two commissioners shall constitute a quorum and be a full board for the transaction of business at all times. In the event of a vacancy in the office of a mayor-domo the commissioners shall immediately appoint a mayor-domo or superintendent to hold office until his successor is elected and qualified. In case of a vacancy in the office of a commissioner, the other two commissioners and the mayor-domo, or any two of them, shall immediately appoint his successor who shall immediately thereafter qualify and hold his office until his successor is qualified. In case of the joint vacancy of two or more commissioners, a majority of the owners of the water rights in said ditch shall immediately appoint their successor who shall qualify and hold office as herein provided."

Sec. 2. That section 10 of the Compiled Laws of New Mexico of 1897, be and the same is hereby amended so as to read as follows: "Section 10. The election for acequia or community ditch officers, under this act, shall be held by the outgoing commissioners, under written rules and regulations to be prescribed by them. Only those having water rights in the acequia or ditch shall be allowed to vote, but votes may be cast by written proxy. All votes shall be in proportion to the interest of the voter in the ditch or water, or in proportion to the number or amount of his water rights, which for election purposes shall never exceed the lands under irrigation the outgoing year. They shall canvass the votes cast and shall record and publicly announce the result of the election within twenty-four hours after the close of the same. Contests, if any, shall be commenced and conducted as now provided by law in the case of general elections for county

officers, but the notice of contest shall be filed within fifteen days after the result of the election is announced as herein required."

Sec. 3. That section 11 of the Compiled Laws of New Mexico of 1897, be and the same is hereby amended to read as follows:

"Sec. 11. The commissioners shall assess fatigue work or tasks of all parties owning water rights in said community ditches or acequias and shall regulate the price to be paid in lieu of said fatigue work, all of which shall be uniform. They shall also be the representatives of said acequias in all civil cases for or against the same. The mayordomo or superintendent shall be the executive officer of said ditch and have the superintendence of all work thereon and of the distribution of the waters thereof, with the collection of fines, if any, and of the amounts to be paid in lieu of fatigue or task work: *Provided*, that he shall turn over to the treasurer of said ditch all moneys thus received, taking his receipt therefor: *Provided however*, that with the consent and approval of the chairman of the commissioners of said ditch, he may retain of the moneys by him thus collected such sums as are necessary to pay for fatigue work as well as repairs necessary to be made upon said ditch or any bridges, flood gates, boxes or dams necessary to be constructed or repaired. He may also, with the consent and approval of a majority of the commissioners, use of the moneys in the treasury such sums as are necessary for such purposes, drawing his approval warrant against the treasurer of said ditch commissioners whose duty shall be to cash the same and mark such warrants "paid" and report them to the commissioners for cancellation and destruction. Said mayordomo shall make full written reports of all moneys received, expended and how expended and of all his doings as such officer, to the commissioners of said ditch semi-annually, on the first Monday in June and the last Monday of September: *Provided further*, that the mayordomo shall make such further reports as may be required by said ditch commissioners. The treasurer of said ditch commissioners shall make such reports to the ditch commissioners of the moneys received, expended and how expended, and kept in his custody as such treasurer and of all his doings as such officer as are herein required of the mayordomo. The commissioners shall receive and pass upon the reports of the mayordomo and the treasurer herein provided for before their term of office expires and if the same are found to be true and correct they shall approve them, otherwise they shall reject them, respectively. All proceedings of the commissioners relating to all subjects whatever shall be reduced

to writing in a book or books kept for that purpose and all books and papers so kept by said commissioners and all reports made, filed or kept as herein required shall always be and remain public property, and shall be subject to the inspection of all persons therein concerned."

Sec. 4. The owners of said community ditches or their lessees or representatives shall labor therein in proportion to their lands under cultivation. It shall be their duty to furnish the number of laborers, proportionate to their lands, required by the mayordomo, at the time and place he may designate for the purposes mentioned in the foregoing section, and for the time he may deem necessary. If any person thus required shall willfully neglect or refuse to comply with such requirements of the mayordomo, after having been duly notified by the mayordomo or his agent, he shall be fined, for each offense, in a sum not exceeding five dollars (\$5.00), for the benefit of said ditch or acequia, which shall be recovered by the mayordomo in a summary way, and in case of default in the payment of said fine, it may be recovered by the mayordomo before any justice of the peace in the county, within fifteen days after such default, and in such cases, the mayordomo may be a competent witness to testify therein.

Sec. 5. In cases of inevitable accidents, such as continual and prolonged droughts, tempests or floods, producing the total or very material failure of crops or expectant crops, the commissioners may, in their discretion, totally or partially exempt the person or persons thus situated from the requirements of the foregoing section relative to continuous labor for lands under cultivation as the circumstances of the case may require. Such exemption or exemptions shall be consistent with the facts and circumstances of the premises and shall not extend to lands thereafter irrigated. Such action by said commissioners shall be reduced to writing and shall become a part of their records.

Sec. 6. If any person shall, during the time of cultivation, contrary to the order of the mayordomo, cut, break, stop up, interfere with or in any manner disturb said acequia or acequias, or contra or lateral acequia thereof or take or use water from the same, contrary to such orders, he may if he is an owner or lessee be fined by the mayordomo, for each offense, in a sum not exceeding twenty-five dollars (\$25.00) recoverable as prescribed in section 4 of this act. And in case such transgressor or transgressors are not owners or lessees in said ditch or its waters, then each such offender shall be deemed guilty of a misdemeanor and shall upon conviction thereof before any justice of the peace in the county where such offense is committed, be punished by a fine in a sum not

exceeding fifty dollars (\$50.00) or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment, at the discretion of the court trying the case.

Sec. 7. The mayordomo shall receive such compensation for his services as may be mutually fixed between him and a majority of the owners of said ditch. The commissioners shall receive such compensation as may be mutually fixed between them and a majority of the owners of said ditch and upon failure to so fix such compensation, then they shall receive such compensation as is now provided by law.

Sec. 8. If any mayordomo of any community ditch or acequia, after having undertaken to serve as such, shall wilfully neglect or refuse to perform any of the duties of his office, or conduct himself with impropriety or injustice in his office as mayordomo, or take any bribe in money, property or otherwise as inducement to act improperly, he shall, upon conviction before any justice of the peace within the county where such offense is committed, be punished by a fine not exceeding fifty dollars (\$50.00) or by imprisonment in the county jail not exceeding thirty days or by both such fine and imprisonment, at the discretion of the court or jury trying the case.

In case of a fine being recovered as herein provided, half of the same shall go to the school fund and the other half to the general fund of the county where the offense is committed.

Sec. 9. Any wilful neglect of his duties or abuse of his powers by any ditch commissioner shall be deemed a misdemeanor and any such commissioner, upon conviction thereof before any justice of the peace within the county where such offense is committed, shall be fined in a sum not exceeding twenty-five dollars (\$25.00) recoverable in the manner now provided by law.

Sec. 10. In all cases of conviction under this act, when the fine assessed by the justice of the peace is the sum of three dollars (\$3.00) or less, an appeal shall be granted to the district court only when all the accrued costs shall have been paid; which appeal shall be taken and conducted as all other appeals from the decision of justices of the peace.

Sec. 11. That in counties of the first class in the territory, the judges of election for community ditch officers shall be appointed by the board of county commissioners of the county, and shall serve gratis and in such elections only the owners or lessees of lands irrigated under said ditches shall be allowed to vote and only one vote shall be allowed to each voter notwithstanding the quantity of land owned and irri-

gated and notwithstanding that such community ditches are considered as bodies corporate.

Sec. 12. That sections 12, 13, 30, 31, 32, 33, 34, 35 and 36, Compiled Laws of 1897, and all laws and parts of laws in conflict with this act be and the same are hereby repealed and this act shall be in force and effect from and after its passage: *Provided*, none of the parts or provisions of this act or any section thereof shall apply or be construed to be in force or effect in any of the following counties, viz: Dona Ana, Grant, Otero, Luna, Lincoln, Chaves, Eddy, Santa Fe, San Miguel, Mora, Guadalupe, Colfax, Union, Taos, Rio Arriba, San Juan, Quay, McKinley, Roosevelt or Valencia.

CHAPTER 33.

AN ACT ESTABLISHING THE LAW AND PROCEDURE IN CERTAIN CASES. *H. B. No. 155; Passed over veto, March 11, 1903.*

CONTENTS.

- Sec. 1. Civil procedure in personal injury cases. Person injured to file affidavit when. Case to be dismissed when. Proviso.
- Sec. 2. On petition district court may issue summons for person injured to appear in court and file complaint. Procedure when person summoned fails to answer.
- Sec. 3. Unlawful to begin action in any other state or territory. Procedure in case such action has been begun.
- Sec. 4. When action begun in any other state or territory district court may issue injunction.
- Sec. 5. Provisions of this chapter not to apply in case process cannot be served in this territory.
- Sec. 6. Claim for damages may be compromised.

Whereas, It has become customary for persons claiming damages for personal injuries received in this territory to institute and maintain suits for the recovery thereof in other states and territories, to the increased cost and annoyance and manifest injury and oppression of the business interests of this territory and the derogation of the dignity of the courts thereof:

Therefore, Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter there shall be no civil liability under either the common law or any statute of this territory on the part of any person or corporation for any personal injuries inflicted or death caused by such person or corporation in this territory, unless the person claiming damages therefor shall within ninety days after such injuries shall have been inflicted make and serve upon the person or corporation

against whom the same is claimed, and at least thirty days before commencing suit to recover judgment therefor, an affidavit which shall be made before some officer within this territory who is authorized to administer oaths, in which the affiant, shall state his name and address, the name of the person receiving such injuries, if such person be other than the affiant, the character and extent of such injuries in so far as the same may be known to affiant, the way or manner in which such injuries were caused in so far as the affiant has any knowledge thereof, and the names and addresses of all witnesses to the happening of the facts or any part thereof causing such injuries as may at such time be known to affiant, and unless the person so claiming such damages shall also commence an action to recover the same within one year after such injuries occur, in the district court of this territory in and for the county in which such injuries occur, or in and for the county of this territory where the claimant or person against whom such claim is asserted resides, or, in event such claim is asserted against a corporation, in the county in this territory where such corporation has its principal place of business; and said suit after having been commenced shall not be dismissed by plaintiff unless by written consent of the defendant filed in the case, or for good cause shown by the court; it being hereby expressly *provided* and understood that such right of action is given only on the understanding that the foregoing conditions precedent are made a part of the law under which right to recover can exist for such injuries, except as herein otherwise provided.

Sec. 2. Whenever any person or corporation shall file a petition in the district court of this territory for the county in which said petitioner lives, or, if a corporation, in the district court for the county in which such corporation has its principal place of business, stating in effect that such petitioner is informed and believes that some party named in said petition claims that he is entitled to damages from said petitioner for personal injuries inflicted in this territory upon the party named in said petition or for personal injuries inflicted upon or death caused to some other person for which such party claims to have a cause of action against said petitioner, and stating as near as may be the general character of such injuries and the manner and the date said party claims they were inflicted and the place where he claims they were inflicted as near as petitioner knows or is informed as to such facts, and praying that the said party may be required to appear in said court and file therein a statement of his cause of action in the form of a complaint against said petitioner, summons shall issue out of said court and be served and re-

turnable as other process, commanding and requiring the said party named in said petition to appear in said court and file such statement in the form of a complaint against said petitioner, if he has to make, and upon such complaint being filed by such party as required, the defendant named therein may demur to or answer the same and such further pleading had as the parties may be entitled to or as may be meet and proper as in other cases of a similar character, and from thence forward such further proceedings shall be had in such cause as in other cases and the same shall be determined upon its merits and final judgment subject, however, to appeal or writ of error, shall be rendered therein either for the petitioner named in said complaint or for the adverse party, and if the court finds the petitioner guilty of any of the wrongs, injuries or trespasses complained of against him in said statement, such damages shall be assessed against the said petitioner as the law and the facts may require, in the same manner as though said cause had been instituted by the filing of said statement as a complaint.

In event said party complained of in said petition, after being duly served with such summons, shall fail or refuse to appear or file his said statement as required herein, judgment shall be rendered by default against him and in favor of the petitioner as in other cases, and thereupon the court shall try and determine the issues raised by such petition including the question as to whether or not the petitioner is liable to said party on account of any of the matters or things stated in said petition in any sum of money whatsoever, and, if so, in what amount, and final judgment shall be rendered in accordance with the facts and the law, and such judgment as the court may render shall be final and conclusive upon the question of the liability or non-liability of said petitioner to said party, and of the amount of the liability.

Sec. 3. It shall be unlawful for any person to institute, carry on or maintain any suit for the recovery of any such damages in any other state or territory, and upon it being made appear to the court in which any proceeding has been instituted in this territory as herein provided, that any such suit has also been commenced, or is being maintained in any other state or territory, contrary to the intent of this act, it shall be the duty of the court to set down for hearing and try and determine the proceeding so pending in this territory as expeditiously as possible, upon such short notice to the other party thereto or his attorneys as the court may direct; and for the purpose of trying the same said court shall have the power to compel the parties thereto to plead or answer on such short day as it may determine, and in event

the same is triable by jury it shall be the duty of the court, upon motion, to change the venue thereof to such county in said district as in the opinion of the court will afford an opportunity for the most speedy hearing; but in event such action is not triable by jury, then the court shall immediately proceed to try and determine the same, giving such reasonable notice as it may determine, to the parties or their attorneys, at any place in the territory which the court may designate, and witnesses may be compelled by subpoena to attend such place personally, from any part of the territory, and testify, as at present, at such time and place. The institution of any such suit in any other state or territory shall be construed by the court as a waiver upon the part of the party so instituting the same of the right of trial by jury in the case pending in the courts of this territory.

Sec. 4. Whenever it shall be made to appear to the district court of this territory for the county in which petitioner or plaintiff lives, by any petition filed under section 3 hereof, or by a supplemental petition, or by an original complaint filed for that purpose, that petitioner or plaintiff fears or has good reason to fear that any other person is threatening or contemplating instituting suit in some other state or territory to recover damages against petitioner or plaintiff for personal injuries inflicted or death caused in this territory, or that he has already instituted and is then maintaining such a suit, it shall be the duty of the court upon such bond as the court may require being given, to issue its injunction *pendente lite* restraining such party from instituting or maintaining such suit in any court sitting in any other state or territory, and, at the final hearing, if such facts are found by the court to be true, the court shall make such injunction perpetual; and at the final hearing in all cases instituted under the provisions of section 3 hereof, the party complained of in the petition shall be perpetually enjoined from further instituting or maintaining any suit or action to recover damages by reason of any of the matters or things set up in said petition.

Sec. 5. This act shall not apply to cases in which the person or corporation against whom damages for personal injuries are claimed can not be duly served with process in this territory.

Sec. 6. Nothing herein contained shall be construed as in any way preventing any one in this territory claiming to have a right of action for any such damages, from compromising such claim.

Sec. 7. All acts and parts of acts and laws in conflict with this act are hereby repealed, and this act shall be in effect from and after its passage.

CHAPTER 34.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT WITH REFERENCE TO TAXATION BY MUNICIPAL CORPORATIONS." APPROVED MARCH 11, 1899. *H. B No. 173; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Section 1, chapter 37, Laws of 1899, regarding municipal corporations constructing water and light plants and taxation. Amended.
Sec. 2. Amendment in section 1 shall apply only to cities having population of six thousand.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1 of an act entitled "An Act with reference to taxation by municipal corporations." approved March 11, 1899, being chapter 37 of the acts of the 33rd Legislative Assembly of the Territory of New Mexico, (1899), be and the same is hereby amended so that all that part of said section 1, beginning "*Provided, however,* that said last mentioned tax shall not exceed the sum of four (4) mills for water etc.," be and the same is hereby amended so as to read as follows: "*Provided, however,* that said last mentioned tax shall not exceed the sum of four (4) mills for water and one and one half (1.5) mills for gas or electric lights on the dollar for any one year. *And provided, also,* that all contracts heretofore made by any city or incorporated town with individuals or an incorporated company prior to the passage of this amendment, for the supply of water, gas, electric lights, or an agreed water, gas or electric light rent which may be paid in whole or in part by a special tax as provided for above of not exceeding four (4) mills for water and one and one-half (1.5) mills for gas or electric lights on the dollar for any one year, be and they hereby are ratified, confirmed and validated. *Provided, further,* that no incorporated city or town shall levy an annual tax in excess of eleven (11) mills, for any purpose whatsoever, excepting for interest on bonded indebtedness."

Sec. 2. That this amendment shall apply to cities having a population according to the last census of six thousand, and to no other municipal corporations.

Sec. 3. This act shall be in force and take effect from and after the date of its passage, and all acts or parts of acts in conflict herewith are hereby repealed.

CHAPTER 35.

AN ACT ENTITLED "AN ACT TO AMEND SECTION 16 OF CHAPTER 81 OF THE LAWS OF 1901, RELATING TO THE APPOINTMENT OF EXECUTORS AND ADMINISTRATORS." *H. B. No. 154; Approved March 12, 1903.*

CONTENTS.

Sec. 1. Section 16, chapter 81, Laws of 1901, regarding persons not qualified to act as executor or administrator. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 16 of chapter 81 of the Session Laws of 1901 is hereby amended by striking out after the word "turpitude" the words "or a married woman."

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 36.

AN ACT TO EXTEND THE PROVISIONS OF AN ACT OF THE 35TH LEGISLATURE ENTITLED "AN ACT IN RELATION TO MAYORS OF CITIES AND TO OTHER OFFICERS," APPROVED FEBRUARY 28, 1903, TO ALL CITIES OF THE TERRITORY, WHETHER INCORPORATED UNDER GENERAL OR SPECIAL LAWS. *H. B. No. 163; Approved March 12, 1903.*

CONTENTS.

Sec. 1. Provisions of chapter 9, Laws of 1903, regarding mayors of cities, extended to all cities of the territory.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the provisions of an act of the 35th Legislature entitled "An Act in relation to mayors of cities and to other officers," approved February 28, 1903, be and the same are hereby applied and extended to all cities in the Territory of New Mexico, whether incorporated under general or special laws.

Sec. 2. That this act shall be in full force and effect from and after its passage.

CHAPTER 37.

**AN ACT TO PROVIDE FOR PUBLIC SCHOOL HOUSES FROM THE
SURPLUS IN GENERAL SCHOOL FUNDS. A. H. B. No. 87;
*Approved March 12, 1903.***

CONTENTS.

- Sec. 1. Directors may use surplus in general school fund to construct school buildings.
Sec. 2. Surplus fund. Available when. Duties of county superintendents, territorial treasurer and school directors.
Sec. 3. Provision when surplus not sufficient to complete buildings.
Sec. 4. Insurance of school buildings.
Sec. 5. Failure of officers to carry out the provisions of this act. Penalty.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

Section 1. That whenever there shall be a surplus in the general school fund in the county treasury to the credit of any school district in the territory, outside of incorporated towns and cities, to the amount of not less than two hundred dollars (\$200.00) after all the expenses of maintaining the schools in said district for teachers' salary, rent, and other expenses connected therewith, the said surplus or any part thereof, may be withdrawn by the directors of said school district and applied by them to the procuring of a suitable site for the erection thereon of proper school buildings or for the repairing of any school building or buildings for the use of such school district, in the manner following.

Sec. 2. That whenever a petition signed by one-half of the legal voters of such school district described in section 1 of this act, as shown by the number of votes cast in said district or precinct at the last general election, shall be presented to the county school superintendent, praying that such surplus money described in section 1 of this act may be turned over to the school directors of such school districts for the purpose of procuring a site and erecting school building or buildings, thereon, then it shall be the duty of said county school superintendent within ten days after the receipt of the said petition, to forward the same to the county treasurer, who shall file the said petition and safely keep the same among the records and archives of his office, and it shall be the duty of said county treasurer to at once notify the school directors of such school district of the amount of money then on hand, subject to be withdrawn for the purposes named; and thereafter the said treasurer shall honor and pay all warrants drawn by such school directors against such surplus fund for the purchase of site and erection of school

houses thereon, when the same are accompanied by itemized and verified accounts and vouchers until the said surplus is exhausted, and it shall be the duty of the school directors to open proper books of account with the said fund, and enter therein all receipts and disbursements on account of such fund; and it shall be their further duty to take from persons to whom money may be due on this account, itemized and verified bills in duplicate, one of which shall be retained by said board of directors, and the other shall be transmitted with the warrant drawn in payment thereof to the county treasurer of the county in which said district is located. And the said school directors shall in no event and under no pretext contract for or incur obligations on such account beyond the amount of money available in the county treasury for such purposes, nor shall they under any circumstances incur any debt in the erection of such school house, or houses, or improvement or repair thereof except as provided in sections 1542 and 1543 of the Compiled Laws of 1897.

Sec. 3. In case there shall not be sufficient surplus moneys on hand to purchase a site and complete the building or buildings contemplated by the school directors under this act they are hereby authorized to procure the site for school purposes and to commence the erection of such building or buildings as they may deem necessary and proper for the purposes herein named, and shall carry on the construction thereof, so far as the moneys on hand for that purpose will permit, as hereinbefore provided, and in case the term of office of any such school directors or any member thereof shall expire, before the said buildings are completed, it shall be the duty of their successor or successors to proceed with the work in the manner herein provided until such work is completed.

Sec. 4. The board of directors of any school district is empowered to expend, from the funds in the treasury of said school district, any moneys necessary to properly insure any school building or buildings in such school district.

Sec. 5. Any failure of any of the officers mentioned in this act to carry out its provisions in the letter and spirit of this act, shall subject such officers to removal and to a forfeiture of their official bond for the benefit of such school district so injured thereby, and any school directors so offending, shall be disqualified to become his own successor in office either by election or by appointment for a period of one year from date of such removal.

Sec. 6. All acts or parts of acts in conflict herewith, are hereby repealed, and this act shall take effect and be in force thirty days after its passage.

CHAPTER 38.

AN ACT REQUIRING COUNTY OFFICERS IN THIS TERRITORY TO ESTABLISH AND MAINTAIN THEIR OFFICES IN THE COUNTY SEAT OF THEIR RESPECTIVE COUNTIES. *H. B. No. 152; Approved March 12, 1903.*

CONTENTS.

Sec. 1. County offices to be maintained at county seat.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the offices of county officers, in this territory shall be established and maintained in the county seat; so it shall be illegal to hold or maintain said offices outside of the place which is required in this section.

Sec. 2. That all laws or parts of laws in conflict or inconsistent herewith are hereby repealed, and this act shall be in full force and value from and after its passage.

CHAPTER 39.

AN ACT RELATIVE TO COMPULSORY EDUCATION AND TO AMEND SECTION 1555, COMPILED LAWS OF 1897. *H. B. No. 102; Approved March 12, 1903.*

CONTENTS.

Sec. 1. Section 1555, Compiled Laws of 1897, regarding compulsory school attendance and duties of school directors. Amended.

Sec. 2. Parent or guardian failing to send children to school. Penalty. Indigent pupils to be supplied with books. Proviso.

Sec. 3. County superintendents to have supervisory powers. Duties of district judges and district attorneys.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1555, original school statute of 1891, as it appears in the Compiled Laws of 1897, is hereby amended to read as follows, viz: "That the school directors or board of any school district, town or city in this territory are hereby empowered and required to compel parents, guardians or other persons having the control, care or direction of children when such children do not attend some private or denominational school, to send such children under their control to the public school for at least three months in each year, except that children referred to in this act shall be not less than seven nor more than fourteen years of age,

or of such physical disability as to unfit them for school duties, which disability shall be certified to by some regular practicing physician."

Sec. 2. Any parent, guardian or other person having the control of children and who shall fail or refuse to send such children to school as required by this act, after the clerk of the school district or the clerk of any town or city school board shall have given public notice containing the substance of this act, written or printed in both English and Spanish, by posting same in some conspicuous place at three separate points within the district, or publishing the same in some newspaper within the district, shall be punished upon conviction thereof by a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), or by imprisonment for not more than ten days in any county jail: *Provided*, that if such parent or guardian is not able, by reason of poverty, to buy books for any such child, it shall be the duty of the school board of any town, district or city, upon the facts being shown to the satisfaction of a majority thereof, to purchase, through the county superintendent or through the district, town or city superintendent, if there be one, the necessary books for the use of said child or children, which books shall be loaned to said indigent pupil during the school term, yet shall remain the property of the district under the care and custody of the district clerk: *Provided, further*, that a sum not exceeding fifty dollars (\$50.00) may be expended in any district in any one year for supplying indigent children with such necessary books, to be paid for out of the school fund of such district, by warrants drawn as in other cases; and, *Provided, also*, that there is no school taught within two miles of the place of residence of said child by the nearest established road.

Sec. 3. County superintendents are hereby vested with general supervisory powers in this matter and shall require directors to comply with the provisions of the preceding section; and it shall be the duty of the presiding judge of the district courts to give, at each session of the court, the substance of this law as a special charge to their respective grand juries, and it is made the duty of the district attorneys to give particular heed to the prosecution of causes growing out of violations of this act; and all fines so collected for the violation of this act shall be paid into the county treasury and placed to the credit of the school district in which the offense occurs.

Sec. 4. All laws and parts of laws in conflict herewith are hereby repealed: and this act shall take effect and be in force in thirty days after its passage and approval by the governor.

CHAPTER 40.

AN ACT TO AMEND CHAPTER 18 OF THE LAWS OF NEW MEXICO
OF 1901. *H. B. No. 36; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Board of health established. Appointed by the governor. Term of office.
- Sec. 2. Officers of the board. Special meetings may be called.
- Sec. 3. Shall grant licenses to graduates of recognized medical colleges. Officers to administer oaths. Penalty for false swearing. Temporary license.
- Sec. 4. Certificates to be recorded in office of probate clerk.
- Sec. 5. Board shall not license and may revoke license of any person guilty of immoral, dishonorable or unprofessional conduct.
- Sec. 6. Words "practice of medicine" defined. Provision.
- Sec. 7. Fees to be collected.
- Sec. 8. Itinerant vendors of drugs and nostrums to pay monthly license. Penalty.
- Sec. 9. Board may license licentiates of other states and territories. Violations of law. Penalty.
- Sec. 10. Distribution of fines and fees. Expenses. Treasurer to give bond. Duties of secretary and treasurer.
- Sec. 11. Board to make all rules and regulations.
- Sec. 12. Section 3, chapter 18, Laws of 1901, regarding granting of licenses. Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That a board of health is hereby established which shall be known as the New Mexico Board of Health, and be composed of seven reputable physicians of known ability who are graduates of medical schools of good standing, who are registered practitioners in, and who are bona fide residents of New Mexico. The governor of New Mexico shall appoint the members of said board, and shall fill any vacancies occurring therein, and shall remove from said board any member who fails to fully perform his duties on said board. The members of said board shall be appointed for a term of two years, and qualify as the board of regents of the University of New Mexico is required to do.

Sec. 2. The board shall organize and select one of its members as president, one as vice-president, one as secretary, and one as treasurer, within four months after the appointment of its members. Said board shall hold meetings in the City of Santa Fe, in the capitol building, in the rooms provided for it by the capitol custodian committee, on the first Mondays of each and every June and December. Said board may hold a special meeting in cases of emergency, said special meeting to be called by the president of the board, and the object of the meeting fully stated. A majority of the members of this board shall constitute a quorum for the transaction of all business.

Sec. 3. The said board shall, upon the production of evi-

dence satisfactory to it, license any reputable person who is a graduate of a medical college in good standing, as defined by this act, to practice medicine, surgery and obstetrics in New Mexico. A medical college in good standing for the purposes of this act is declared to be one of at least ten years continuous existence, one which now requires a high school certificate or its equivalent, for admission to it, and one which now or hereafter requires an attendance on, and gives, four full courses in four separate years, and one which has ample clinical facilities such as are furnished in large cities. And said board shall at its December meeting in each year prepare and cause to be printed and distributed for the information of those interested, a copy of this law and a list of the medical colleges in the United States of America recognized by it to be in good standing under this section. And such board shall recognize any honorary or emeritus degree conferred upon any eminent foreigner by any such college as fully and to the same extent as if the applicant were a regular graduate thereof. The president and secretary of said board shall be and are hereby empowered to administer oaths to applicants and all witnesses and others appearing before said board in any application or proceeding provided for herein, and any person making a false oath or affidavit before said board, shall be guilty of perjury, and be subject to punishment for that crime. The secretary of said board shall issue a temporary license to any person complying with the provisions of this act, who has paid the fee to the secretary.

Sec. 4. Every person holding a certificate of said board of health, shall have the same recorded in a book provided for that purpose in the office of the probate clerk of the county wherein the practitioner resides, within thirty days after said certificate is issued, and the date of the recording shall be endorsed on said certificate. Said certificate, or a copy of the registration, must be again recorded in any county to which the practitioner may remove permanently. And the fact that no such certificate shall be found recorded in the county where any person is practicing or offering to practice medicine shall be accepted by the court as prime facie evidence that no such certificate has been issued, and shall throw the burden of proving that he has a certificate upon the defendant in any suit or prosecution begun against him for the violation of the provisions of this act.

Sec. 5. It is hereby made the duty of this board to refuse to license any person guilty of immoral, dishonorable or unprofessional conduct, and said board shall also revoke and annul any certificate, which has been issued by said board, or by any previous board, upon satisfactory proof being made to

the said board, that the holder of said certificate or diploma has been guilty of immoral, dishonorable or unprofessional conduct. Five days' notice shall be given in writing to the person accused of improper conduct with a copy of the same against him, requiring him on a day named to appear before the board, and show cause why his license should not be revoked or cancelled. When any such license has been revoked or cancelled by said board, the said board shall send notice in writing under the hand of the secretary, which notice shall be filed for record and recorded in the book in which the physicians' licenses are recorded, in the office of the probate clerk of the county in which the person, whose license has been revoked, resides. Any person whose certificate has been revoked or cancelled by said board, under the provisions of this act, who shall hereafter practice or attempt or offer to practice medicine in New Mexico, shall thereby become guilty of a misdemeanor and shall be punished as provided in section 9 of this act.

Sec. 6. For the purposes of this act the words "practice of medicine" shall mean to open an office for such purpose or to announce to the public or to any individual in any way, a desire or willingness or readiness to treat the sick or afflicted, or investigate or diagnose, or offer to investigate or diagnose, any physical or medical ailment or disease of any person, or to suggest, recommend, prescribe or direct, for the use of any person, any drug, medicine, appliance or other agency, whether material or not material, for the cure, relief or palliation of any ailment or disease of the mind or body, or for the cure, or relief, of any wound fracture or bodily injury or deformity, after having received, or with the intent of receiving therefor, either directly or indirectly any bonus, gift or compensation.

Provided, that nothing in this act shall be construed to prohibit gratuitous services in cases of emergency, or the domestic administration of family remedies, or women from practicing midwifery, and this act shall not apply to surgeons of the United States in the discharge of their official duties.

Sec. 7. Each applicant for a license to practice medicine in New Mexico shall pay to the secretary of this board a fee of twenty-five dollars (\$25.00).

Sec. 8. Any vender, except licensed druggists, of any drug, nostrum, ointment or appliance of any kind intended for the treatment of disease or injury or who shall, by writing or printing, or any other method, profess to cure or treat disease or deformity by any drug, nostrum, manipulation or other expedient, shall pay a license of one hundred dollars (\$100.00) per month into the treasury of said board, upon

which said payment, such vender shall be licensed by said board to sell drugs, nostrum, medicines and ointments. And any person so vending or attempting to sell either from his home or office or from vehicles or by travelling through the country, on foot or horseback, any such drugs, medicines or ointments, without paying such license, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed one hundred dollars (\$100.00) or imprisonment in the county jail not to exceed ninety days, or by both such fine and imprisonment, in the discretion of the court.

Sec. 9. Upon payment to the board of the fees provided for in section 7 of this act said board may grant licenses to licentiates of other states and territories, which have like requirements as this act provides for, and when said states and territories also honor our licenses or certificates, to the same extent as they now recognize our licenses and no further. Any person who shall practice medicine, or attempt to practice medicine, without first complying with the provisions of this law, and without being the holder of a certificate entitling him to practice medicine in New Mexico, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars (\$100.00), or imprisonment in the county jail not to exceed ninety days, or by both such fine and imprisonment, in the discretion of the court.

Sec. 10. One-half of every fine collected under the provisions of this act, shall go and be paid by the court in which conviction is had, to the sheriff, deputy sheriff, constable or other person who makes complaint, and arrests and causes to be prosecuted, the person so convicted. The other half of all such fines and all fees herein provided to be paid, shall go and be the property of the said board of health and shall be by the treasurer of said board kept in some bank designated by said board. He shall give bond to the board in the sum of one thousand dollars (\$1,000.00) conditioned for the faithful performance of his duty as treasurer, and that he shall pay over any and all sums of money received by him as such upon the proper order therefor. Such bond shall be given by some fidelity or surety company authorized to do business in this territory, and the premium paid therefor, shall be paid by the board as one of its necessary expenses. All the expenses of the members of said board necessarily and properly incurred in attending the sessions of said board, and for necessary supplies, shall be paid out of the said fund upon the order of the president and the secretary of said board. The treasurer of the board shall keep a correct and itemized account

of all moneys received, and disbursed, and shall make a report to the board at each meeting. The secretary of said board is required to report the doings and proceedings of said board, together with the amount of all moneys by it received and disbursed, and on what account, with items, on the first day of December in each year, to the governor of New Mexico.

Sec. 11. Said board of health is hereby authorized and empowered to make all necessary rules and regulations for carrying out the provisions of this act.

Sec. 12. Section 3 of chapter 18 of the Session Laws of 1901, and all acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force thirty days after its passage.

CHAPTER 41.

AN ACT PROVIDING THE PROCEDURE BY WHICH CITIES SHALL OBTAIN TITLE TO PRIVATE PROPERTY BY CONDEMNATION.

C. B. No. 32; Approved March 12, 1903.

CONTENTS.

Sec. 1. Sub-section 92nd, section 2402, Compiled Laws of 1897, regarding proceedings to obtain condemnation, Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 2 of chapter 3 of the Acts of the Legislative Assembly of the year 1891, being sub-section ninety-second of section 2402 of the Compiled Laws of 1897, be and it is hereby amended so as to read as follows:

"Ninety-second. That proceedings to obtain such condemnation shall be in all respects the same as now provided by law for the condemnation of land for railroad purposes."

CHAPTER 42.

AN ACT EMPOWERING CITIES TO GRADE AND IMPROVE STREETS AND ASSESS THE COST THEREOF AGAINST ABUTTING PROPERTY. *A. C. B. No. 31; Approved March 12, 1903.*

CONTENTS.

Sec. 1. City councils and boards of trustees of towns and villages to have power to order improvement of streets. Engineer to make estimate of cost.

Secs. 2 and 3. Engineer to file report. Owners of property may appear before council or board of trustees. Notice of meeting to be published.

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- Sec. 4. Council or board of trustees to advertise for bids, and let contract.
Sec. 5. Assessment on abutting property.
Sec. 6. Assessment on abutting property to be a lien 'n same. Claim of lien to be recorded.
Sec. 7. Lien to bear interest. May be sold, assigned or foreclosed.
Sec. 8. Destruction of buildings. Must be approved by district judge. Compensation.
Sec. 9. Sub-section 82nd, section 2402, Compiled Laws of 1897, regarding levying of assessments for street improvements, Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever the city council of any city, whether incorporated under general or special laws, or the board of trustees of any town or village in the Territory of New Mexico shall be of the opinion that the interests of said city require that any street or alley, or any part thereof, within the limits of said city, be graded, gravelled, paved, macadamized or in any manner improved, such city council or board of trustees shall make a provisional order to the effect that such street or alley or part thereof shall be so graded, gravelled, paved, macadamized or improved, and shall order the city engineer, or some other competent engineer, to cross-section said street or alley or part thereof and to make an estimate of the total cost thereof, and an estimate of the number of cubic yards of material necessary to be used in the grading thereof, or to be excavated therefrom.

Sec. 2. Upon the filing of the report of such engineer, said city council or board of trustees shall set a time and place at which the owners of property abutting on such street or alley or part thereof so to be improved, or any other persons interested therein, may appear before said city council or board of trustees and be heard as to the propriety and advisability of making such improvements, and as to the cost thereof, and as to the manner of payment therefor, and as to the amount thereof to be assessed against the property abutting thereon. Five days' notice in writing of such time and place shall be given to such property owners, which shall be served by delivering a copy thereof to each of such property owners, if he can be found within said city, town or village, otherwise by delivering a copy thereof to some person residing on such property, or by posting a copy thereof on such abutting property; and notice of the time and place of such hearing shall also be given by publication in some newspaper published in said city, town or village at least three weeks prior to the time thereof; and the officer serving such notices shall make return of the manner of making the same, which shall be filed with the city clerk of said city or recorder of said town or village.

Sec. 3. At the time and place so fixed as aforesaid, any

owner of such abutting property, or any person interested, may appear before said city council or board of trustees and be heard as to the propriety and advisability of making such improvements, and as to the cost thereof and manner of payment therefor, and as to the amount thereof to be assessed against said abutting property.

Sec. 4. After such hearing, said city council or board of trustees shall determine as to the advisability of so grading, gravelling, macadamizing or otherwise improving such streets or alleys or parts thereof and shall determine the kind and character of such improvements so to be made, and shall proceed to advertise for bids for the doing of the work therefor, and shall enter into a contract for the doing of such work and the furnishing of all necessary materials to the lowest bidder.

Sec. 5. After the making of such contract, said city council or board of trustees shall determine what portion of such work shall be paid by such abutting property, and the owners thereof, and shall assess to each lot or parcel of land abutting upon such street or alley or part thereof so to be improved its proportionate share of such total amount.

Sec. 6. The amount so assessed shall be a lien upon such lot or parcel of land from the time of such assessment, and if such amount be not paid within thirty days from and after the completion and acceptance of such work, it shall be the duty of the city clerk of said city or recorder of the town or village to make cut, sign, attest with the seal of said city and file for record in the office of the probate clerk and ex-officio recorder of the county in which said city, town or village is located, a claim of lien therefor; and all subsequent purchasers, mortgagees or incumbrancers of such lot or parcel of land, shall take the same subject to such lien.

Sec. 7. Such liens shall bear interest at the rate of eight per cent, per annum from the date of the filing thereof until paid, and after such recording may be sold and assigned to any person for its face value with interest, and may be foreclosed at any time after such recording in the same manner as now provided for the foreclosing of mortgages on real estate.

Sec. 8. In case any proposed improvement shall involve the destruction of any building or other structure, no action shall be taken until the same has been approved by the judge of the district, on notice to the owners interested; and compensation shall be made to the owners of the property destroyed, the amount thereof to be fixed by agreement or proceedings similar to condemnation proceedings by railroad companies.

Sec. 9. That section 3 of chapter 43 of the acts of the Legislative Assembly of the year 1891, being sub-section eighty-second of section 2402 of the Compiled Laws of the year 1897, and all acts and parts of acts in conflict herewith, be and they are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER 43.

AN ACT ENTITLED AN ACT TO AMEND SECTIONS 3721 AND 3722 OF THE COMPILED LAWS OF NEW MEXICO OF 1897. C. B. *No. 104; Approved March 12, 1903.*

CONTENTS.

Sec. 1. Section 3721, Compiled Laws of 1897, regarding examinations by board of pharmacy. Amended.

Section 3722, Compiled Laws of 1897, regarding fees for registration by board of pharmacy. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 3721 of the Compiled Laws of 1897 be and the same is hereby amended by adding thereto, at the end of said section :“for which renewal the board of pharmacy shall be entitled to demand and receive the sum of three dollars (\$3.00).” That section 3722 of the Compiled Laws of 1897 be and the same is hereby amended to read as follows: “Sec. 3722. The board of pharmacy shall be entitled to demand and receive from each person whom they register and furnish a certificate as a registered pharmacist, the sum of ten dollars (\$10.00), which shall be in full for all services. In case the examination of said person shall prove defective and unsatisfactory to the board, and he be declined registration, he shall be permitted to present himself for re-examination within twelve months thereafter, and no charge shall be made for such re-examination.”

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 44.

AN ACT TO AMEND SECTION 13 OF THE COMPILED LAWS OF 1897, RELATING TO ACEQUIAS OR DITCHES, AND FOR OTHER PURPOSES. *A. C. B. No. 56; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Section 11, Compiled Laws of 1897, regarding duties of mayordomo and commissioners. Amended.
- Sec. 2. Section 13, Compiled Laws of 1897, regarding interference with acequias, penalties, and neglect of duty by mayordomo. Amended.
- Sec. 3. Section 24, Compiled Laws of 1897, regarding appraisers in constructing acequias. Amended.
- Sec. 4. Section 32, Compiled Laws of 1897, regarding labor on acequias, failure to perform labor and penalties. Amended.
- Sec. 5. Sections 35, 37, 38 and 39, Compiled Laws of 1897, regarding management of acequias. Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 11 of the Compiled Laws of 1897 be amended as follows, to-wit: After the word "acequias" in the third line of said section, insert the following language: "and shall have power to contract and be contracted with and also to make all necessary assessments to provide funds for the payment of the salary of the mayordomo and other legitimate expenses incident to the proper conduct and maintenance of the acequias under their charge, and also to make contracts for obtaining water for irrigating purposes in connection with their ditches, such contracts to be ratified by a vote of a majority of the owners of water rights in said ditches;" and after the words "be fixed by them" in the sixth line of said section, add the following: "and shall, immediately upon taking office, provide by-laws, rules and regulations not in conflict with the laws of the territory for the government of said ditch or acequia, and a printed copy thereof shall be furnished to each owner of a water right in said ditch."

Sec. 2. That section 13 of said Compiled Laws be amended so as to read as follows, to-wit: "Any person, not the owner or duly authorized representative of the owner, of a water-right in said ditch, or any such owner or representative, who shall, contrary to the orders of the mayordomo or commissioners, cut, break, stop up, or interfere with said acequia, or any contra or lateral acequia thereof, or take or use water from the same contrary to such orders, shall be guilty of a misdemeanor, and upon complaint made before the nearest justice of the peace, a warrant shall issue for his arrest, as in

case of any other offense against the territory, and upon conviction the defendant shall be fined in a sum of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), and in default of the payment of said fine shall be confined in the county jail for a period of not less than five nor more than thirty days. And it is hereby made the duty of the mayor-domo of any such acequia, to prosecute in the name of the Territory of New Mexico any violation of this section whenever he shall obtain knowledge thereof, and his failure to do so shall be deemed a misdemeanor, and upon conviction thereof shall be fined in a sum not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), or by imprisonment in the county jail not less than ten nor more than thirty days."

Sec. 3. That section 24 of said Compiled Laws be amended by striking out the words : "which, once done, shall be executed and without appeal."

Sec. 4. That section 32 of said Compiled Laws, be amended by adding thereto the following, to-wit: "And it shall be their duty when called upon by the mayordomo, to assist him in stopping breaks in, or removing obstructions from, any such common ditch or acequia, regardless of whether or not they have performed their annual labor thereupon; and failure to respond to such call shall be deemed a misdemeanor, and upon conviction thereof the defendant shall be fined in a sum not less than five dollars (\$5.00) nor more than fifteen dollars (\$15.00), and shall be denied the use of the waters of said ditch until said fine and costs are paid."

Sec. 5. That Sections 36, 37, 38 and 39 of said Compiled Laws be, and the same are hereby repealed.

Sec. 6. This act shall take effect thirty days from the date of its passage.

CHAPTER 45.

AN ACT TO PROVIDE FUNDS FOR THE PRINTING OF THE RULES OF THE SUPREME AND DISTRICT COURTS OF THE TERRITORY OF NEW MEXICO. *C. B. No. 61; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Appropriation for the printing of rules of the supreme and district courts.
 Sec. 2. Territorial auditor to draw his warrant for amount appropriated. Printing to be let to lowest bidder.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the sum of one hundred dollars (\$100.00)

or so much thereof as may be necessary, is hereby appropriated out of any funds in the hands of the territorial treasurer, not needed for the payment of the interest on the bonded debt, for the purpose of printing the rules of the supreme and district courts of the Territory of New Mexico.

Sec. 2. The territorial auditor is hereby directed to draw his warrant upon the territorial treasury in payment of all bills presented to him for the printing of the rules of the supreme and district courts, duly approved by the clerk of the supreme court, not to exceed the amount mentioned in section 1 of this act. The printing provided for herein will be let to the lowest responsible bidder.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage and approval.

CHAPTER 46.

AN ACT GROUPING THE SEVERAL COUNTIES OF THE TERRITORY INTO DISTRICTS FOR DISTRICT ATTORNEY PURPOSES AND PROVIDING FOR THE APPOINTMENT OF DISTRICT ATTORNEYS THEREFOR. *A. C. B. No. 84; Approved March 12; 1903.*

CONTENTS.

- Sec. 1. Creation and establishment of district attorney's districts. Appointment of district attorney. Term of office.
Sec. 2. District attorneys. Salary. Duties. Qualification

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. For district attorney purposes in the Territory of New Mexico, the following districts are created and established, viz:

The Counties of Santa Fe, Taos, Rio Arriba, and San Juan shall constitute the first district attorney's district. The Counties of San Miguel, Mora, Guadalupe and Quay shall constitute the second district attorney's district. The Counties of Colfax and Union shall constitute the third district attorney's district. The Counties of Bernalillo, Valencia and McKinley shall constitute the fourth district attorney's district. The County of Socorro alone shall constitute the fifth district attorney's district. The Counties of Luna, Dona Ana, Otero, and Lincoln shall constitute the sixth district attorney's district. The Counties of Grant and Sierra shall constitute the seventh district attorney's district. The Counties of

Chaves, Eddy and Roosevelt shall constitute the eighth district attorney's district. There shall be a district attorney, learned in the law, nominated and by and with the consent of the legislative council appointed by the governor for each of the above named district attorney's districts, by its proper number, each of whom shall be a resident in some one of the counties of the district for which he is so appointed. They shall each hold office for the period of two years from the date of appointment, and until a successor is appointed and qualified, and no person shall be appointed as district attorney, who shall not have been a resident of this territory.

Sec. 2. The district attorneys provided for in this act shall receive from the territory the sum of five hundred dollars (\$500.00) each, and from the several counties in their respective districts the same salary and compensation now provided by law for such officers, and all fees and emoluments now allowed to such district attorneys, and the duties, obligations and responsibilities of such officers and their method of qualification shall be the same as now provided by law for district attorneys.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed and this law shall take effect and be in force from and after its passage.

CHAPTER 47.

AN ACT TO PROVIDE FOR THE MANAGEMENT OF THE LAS NEVAS GRANT, AND FOR OTHER PURPOSES. C. B. No. 101; Approved March 12, 1903,

CONTENTS.

- Sec. 1. District court of San Miguel county to manage and control.
- Sec. 2. Board of trustees to be appointed by district court.
- Sec. 3. Board of trustees. Officers.
- Sec. 4. District court to exercise same control as courts of equity exercise over receivers.
- Sec. 5. Members of board of trustees to give bond.
- Sec. 6. Board of trustees. Compensation.
- Sec. 7. Board of trustees to deliver deeds to persons having good title.
- Sec. 8. Board of trustees. Designation. To make rules and regulations.
- Sec. 9. Board of trustees to have power to lease, sell or mortgage land.
- Sec. 10. All acts of district court confirmed and ratified.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the district court of San Miguel county, in the Territory of New Mexico, is hereby vested with jurisdiction to manage, control and administer that land claim

known as "The Las Vegas Land Grant," confirmed by the act of congress on the 21st day of June, A. D. 1860, to the town of Las Vegas.

Sec. 2. That said district court shall in the exercise of the jurisdiction hereby conferred upon it, appoint a board of trustees to consist of not less than three nor more than seven persons from among residents upon the land embraced within the exterior boundaries of said Las Vegas Land Grant.

Sec. 3. That said board of trustees, when appointed as hereby provided shall organize by selecting one of their number as chairman of said board of trustees who shall preside over the meetings of said board, and another, of said board, as secretary, whose duties it shall be to keep and preserve the records and doings of said board of trustees. A majority of said board shall constitute a quorum for the transaction of any and all business coming before said board.

Sec. 4. That the said district court of San Miguel county shall exercise the same control over the said board of trustees, and over the acts and doings of said board of trustees, that courts of equity exercise over receivers appointed by them and over the acts and doings of their receivers.

Sec. 5. That any and all persons appointed by said court as trustee under the provisions of this act, shall give a bond to the Territory of New Mexico conditioned as receiver's bonds are.

Sec. 6. Said trustees shall be paid such reasonable compensation as the said district court shall order or direct.

Sec. 7. This act shall not interfere with or prejudice any vested rights in and to any of the lands embraced within the boundaries of said Las Vegas Grant, or preclude a judicial examination or adjustment thereof, and it is hereby made the duty of said board of trustees to make, execute and deliver deeds of conveyance to any and all persons who hold a title to any such lands, which became or was perfect or entitled them to the possession thereof at the time of the acquisition of New Mexico, under the treaty of Guadalupe Hidalgo, or at any other time subsequent thereto.

Sec. 8. That said board of trustees shall be known and designated as the "Board of Trustees of the Town of Las Vegas," and under that name shall contract and transact all business coming before said board, and said district court is hereby authorized to make and promulgate rules and regulations under and pursuant to which said board of trustees shall conduct and transact all business pertaining to the management, control and administration of said land grant.

Sec. 9. Such board of trustees shall have the power, under the direction of said court, to lease, sell or mortgage any

part or parts of said tract of land, for such price and upon such terms or conditions as may by said court and said board be deemed advisable and use the proceeds thereof for such purposes as said board and court may deem to be for the best interests of the community for the benefit of which said grant was made.

Sec. 10. That any and all appointments of trustees heretofore made by the district court of San Miguel county for the management of said Las Vegas Grant, and all acts and things done and performed by said district court of San Miguel county in assuming jurisdiction in managing, controlling and administering said Las Vegas Grant, is hereby ratified and confirmed.

Sec. 11. This act shall be in force and take effect from and after its passage.

CHAPTER 48.

AN ACT TO CREATE THE OFFICE OF GAME AND FISH WARDEN OF THE TERRITORY OF NEW MEXICO, TO PROVIDE FOR THE PROTECTION OF GAME AND GAME FISH, AND FOR OTHER PURPOSES. *C. B. No. 66; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Game and fish warden. Appointment by governor. Term of office.
- Sec. 2. Game and fish warden. To take oath. To give bond. Salary.
- Sec. 3. Deputies. Appointment. Compensation. Duties of warden and deputies. Penalties. Proviso.
- Sec. 4. Trout or game food fish. Manner of taking. When lawful to catch. Penalties.
- Sec. 5. Unlawful to take trout or game food fish less than six inches in length. Penalties.
- Sec. 6. Unlawful to buy, sell or transport game or game fish caught or killed in the territory. Penalties.
- Sec. 7. Unlawful to deposit sawdust in streams or lakes. Unlawful to use any drug or explosive in catching fish. Penalty.
- Sec. 8. Screens to be maintained. Penalty.
- Sec. 9. Copies of game law to be mailed postmasters of the territory. Postmasters to post copy.
- Sec. 10. Unlawful to catch in one day more than fifteen pounds of speckled trout or twenty-five pounds of bass. Penalty.
- Sec. 11. Unlawful for restaurants or hotels to offer to patrons game fish or game killed in New Mexico. Game fish or game imported by restaurants or hotels can be sold only on permit from warden or deputy. Penalty. Proviso.
- Sec. 12. "Game fish" defined.
- Sec. 13. This act to apply to Indians. Secretary to send certified copies to Indian agents in territory.
- Sec. 14. Streams may be appropriated for propagating fish. Notices to be posted and published. Penalty for fishing within enclosure.
- Sec. 15. Unlawful to kill elk, antelope or mountain sheep for period of two years. Penalty.

Sec. 16. Unlawful to kill deer except in months of November and December. Proviso.

Sec. 17. Word "Game" defined.

Sec. 18. Penalty for violation of provisions of section 16. Proviso.

Sec. 19. Chapter 51, Laws of 1899, regarding protection of game and fish, Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Within thirty days after the passage of this act, there shall be appointed by the governor of the territory of New Mexico an officer to be known as the game and fish warden of the Territory of New Mexico, whose term of office shall be two years and until his successor shall be appointed and qualified, and whose duties shall be as prescribed by this act.

Sec. 2. Such game and fish warden shall, before entering upon the discharge of his duties, qualify by taking the oath now required by law to be taken by officers of the Territory of New Mexico, and by filing with the secretary of the territory, after approval by the governor, a good and sufficient bond with two or more sureties, in the sum of two thousand dollars (\$2,000.00), conditioned for the faithful performance and discharge of his duties; and shall receive as full compensation for his services the sum of eighteen hundred dollars (\$1,800.00 per annum to be paid monthly out of the territorial treasury in the same manner as salaries of other territorial officers are paid.

Sec. 3. Such game and fish warden shall have the power to appoint deputies in each county in this territory, and to remove the same from office, who shall be residents of the county for which they are appointed, and who shall be specially charged with the duty of enforcing the fish and game laws of the Territory of New Mexico in their respective counties, and such deputies shall receive in full compensation for their services, one-half of all fines imposed upon prosecutions procured or instituted by them, and convictions secured thereunder, for violations of the game and fish laws of this territory, and each deputy so appointed shall qualify by filing with the game and fish warden of the Territory of New Mexico, an oath of office in the form now prescribed by law for territorial officers. It shall be the duty of the game and fish warden of the Territory of New Mexico and of each and every deputy within his county, rigidly and strictly to care for and enforce the provisions of this and all other laws of the Territory of New Mexico for the protection of game and fish of whatsoever kind or description, and to institute or cause the institution of prosecutions for any and all violations

of such laws, and to that end such game and fish warden and each and every of his deputies within their respective counties as aforesaid, are hereby authorized and required to arrest, or cause to be arrested, all violators of such laws, and to lodge accusations against them in a court of competent jurisdiction in the premises; to gather evidence on behalf of the prosecution of such offenders, and to do any and all things necessary to the punishment hereunder and under the laws of the Territory of New Mexico of any violations of this or any other law of said territory on the subject of fish and game and the protection thereof. And such game and fish warden or deputy shall be liable to a fine of not less than one hundred dollars (\$100.00) nor more than two hundred and fifty dollars (\$250.00), or by imprisonment for not less than thirty nor more than ninety days for any failure to arrest and prosecute any person violating any of the provisions of this act: *Provided*, that such violations come within the knowledge of such warden or deputy, and the conviction thereof shall also operate as a removal of such person from office.

Sec. 4. It shall be unlawful for any person or persons to catch, kill, or have in his or their possession, any species of trout or game food fish found in the public streams or waters of this territory, unless such fish has been taken with a hook and line attached to a rod or held in the hand, and unless such fish be so caught or taken between the fifteenth day of May and the fifteenth day of October in any year; and any person or persons, catching, killing or having in his or their possession, any such fish taken in any other manner or at any other time than as herein permitted, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), or by imprisonment not less than thirty days nor more than sixty days, or by both such fine and imprisonment in the discretion of the court; and every fish caught or killed in violation hereof shall cause a separate and distinct prosecution of such offender, as for a separate and distinct offense.

Sec. 5. No species of trout or other game food fish shall be taken in any manner or at any time from the public streams or waters of this territory, unless such fish be of a length not less than six inches, and any person having in his possession at any time any fish taken from the public waters or streams of this territory, the size of which is less than six inches in length, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), or by imprisonment for not less than thirty nor

more than sixty days, or by both such fine and imprisonment in the discretion of the court.

Sec. 6. It shall be unlawful for any person or persons, agent or employe, or any association or corporation, to buy or sell, or to expose or offer for sale, any species of trout or game food fish taken from the public streams or waters of this territory, or any game known as elk, deer, antelope, or mountain sheep, at any time during the year; and it shall be unlawful for any railway, express company, stage line or other public carrier, or any of their agents or employes, to receive or have in their possession for transportation for market, any species of trout or game food fish taken from the public streams or waters of this territory, or any game known as elk, deer, antelope, or mountain sheep, or to transport the same for market, after the passage of this act; and any person or persons, agent or employe of any such association or corporation violating any of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00).

Sec. 7. It shall be unlawful for the owner or owners of any saw mill, or any of the employes thereof, or any other person or persons whomsoever, to deposit, throw or in any way permit to pass into any natural stream, or any lake wherein are living fish, any sawdust, or any other substance that will or may tend to the destruction or driving away of any such fish from such water; and it shall be unlawful to use for the killing or catching of any fish, any poisonous, deleterious or stupefying drug, dynamite, giant powder or other explosive, at any time; and every person violating any of the provisions of this section, shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than six months nor more than one year.

Sec. 8. It shall be the duty of the owner or owners of all canals or ditches in which any portion of the waters of any stream, in which are game food fish as defined by this act, are diverted for purposes of irrigation, or any other purpose which consumes such waters, to arrange and construct at the intake or head of such canals or ditches a wire screen or screens of sufficient fineness to prevent the passage thereof of any such fish of a length of three inches. Any owner or owners of such canals or ditches failing to so arrange and construct such screen or screens, after thirty days' notice so to do, given in writing by the game and fish warden of this territory, or any deputy game and fish warden for the county in which the head of such ditch is located, shall be

guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), or by imprisonment in the county jail for not less than thirty nor more than sixty days, or by both such fine and imprisonment in the discretion of the court trying the case.

Sec. 9. Within thirty days after the passage of this act, the secretary of the Territory of New Mexico shall cause copies hereof in Spanish and English to be sent by mail to each postmaster in the Territory of New Mexico, with an appropriate request accompanying the same that such copy hereof in Spanish and English be posted conspicuously in view of the public at the office of such postmaster.

Sec. 10. It shall be unlawful at any time of the year for any fisherman or person whomsoever, to catch or kill or have in his possession, in any one day, more than fifteen pounds of speckled trout or more than twenty-five pounds of bass taken from any of the public waters or streams of this territory, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), or by imprisonment for not less than thirty nor more than sixty days, or by both such fine and imprisonment in the discretion of the court.

Sec. 11. No game fish shall be held in possession of, or placed upon the table of any hotel, restaurant, cafe or boarding house, or named on its menu or bill of fare as food for its patrons, either under the name used in this act or in the laws of New Mexico or under any other name or guise whatever, when the same shall have come from any of the public streams or waters within the Territory of New Mexico; or game known as elk, deer, antelope or mountain sheep, killed within the Territory of New Mexico; and whenever any proprietor, manager, keeper or owner of any hotel, restaurant, cafe or boarding house shall import any game or game fish into this territory, it shall be the duty of such proprietor, manager, keeper or owner, immediately to report the fact to the game and fish warden of the Territory of New Mexico or to his deputy within the county, and to apply for a permit to sell and offer for sale the same, and upon satisfying the said warden or deputy by the production of invoices, bills of lading or other required proofs, that the game, or game fish come from without the Territory of New Mexico, then a permit shall be issued by such warden or deputy, for a period not greater than ten days, to such proprietor, manager, keeper or owner of such hotel, restaurant, cafe or boarding

house, allowing him to sell and offer for sale the same during the period stated in such permit: *Provided*, that the provisions of this section shall also apply to any business house or merchant within the Territory of New Mexico, importing, or offering for sale, or selling game or game fish brought from without said territory. Any person failing to comply with the provisions of this section or violating any of the provisions thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or by imprisonment for not less than thirty nor more than sixty days or by both such fine and imprisonment in the discretion of the court.

Sec. 12. Game fish as defined by this act, are small and large mouth bass, and speckled trout of whatsoever variety or species.

Sec. 13. The provisions of this act shall apply to all Indians off the reservations within this territory or coming into this territory from adjoining states or territories, and it is hereby made the duty of the secretary of the territory to make certified copies of this act within ten days after the passage thereof and send the same by registered mail to each and every Indian agent in the Territory of New Mexico.

Sec. 14. Whenever the owner or lessee of lands within any enclosure in this territory shall desire to protect or propagate any fish in any stream within said enclosure, he may publish notices of such act in both English and Spanish warning all persons not to fish within such enclosure or water described, which notice shall be by hand-bills posted in at least three conspicuous places on said premises, and by publication in some newspaper of general circulation in the county where such enclosure is situate, which publication shall be for the period of three weeks or three consecutive publications of such newspaper. After the publication and posting of such notice, it shall be unlawful for any person or persons to trespass on said premises for the purpose of fishing, and any person or persons so trespassing shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), or by imprisonment for not less than thirty nor more than sixty days.

Sec. 15. After the passage of this act, and for a period of two years thereafter, it shall be unlawful to kill or in any wise destroy or injure any elk, antelope or mountain sheep in the Territory of New Mexico, and any person violating the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a

fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or by imprisonment for not less than sixty days, or by both such fine and imprisonment at the discretion of the court.

Sec. 16. After the passage of this act it shall be unlawful to kill, wound, or in any way destroy any deer within the Territory of New Mexico, except that such deer, the animal being with horns, may be killed with a gun during the months of November and December in each year: *Provided*, that no person shall kill or have in his possession more than one deer during said months of November and December in each year.

Sec. 17. The word "game" as used in this act, to be distinguished from the words "game fish" whenever used, is hereby defined to mean elk, deer, antelope and mountain sheep.

Sec. 18. Any person violating the provisions of section 16 of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), or imprisonment for not less than thirty nor more than sixty days, or by both such fine and imprisonment at the discretion of the court: *Provided, also*, that one-half of all fines collected for violations of this act, shall be turned into the county treasurer of each county, to be distributed in the school fund of the county in which the offense was committed.

Sec. 19. Chapter 51 of the Session Laws of 1899 of the 33rd Legislative Assembly of the Territory of New Mexico, is hereby repealed; and all acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 49.

AN ACT TO AMEND SECTION 3 OF AN ACT ENTITLED "AN ACT TO CREATE THE COUNTY OF SANDOVAL," APPROVED MARCH 10, 1903. *C. B. No. 123; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Section 3, chapter 27, Laws of 1903, regarding election of officers of Bernalillo county. Amended.
- Sec. 2. Board of county commissioners to divide Bernalillo county into commissioner districts.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 3 of the act to create the County

of Sandoval, approved on March 10, 1903, be and the same is hereby amended so as to read as follows:

"Sec. 3. That T. C. Gutierrez, to fill the unexpired term of the second district, and Severo Sanches, be and they hereby are appointed and constituted county commissioners for the County of Bernalillo as the same is constituted after the creation of Sandoval county, and the said T. C. Gutierrez and Severo Sanches shall qualify as said county commissioners on or before the fifth day of April, A. D. 1903, and shall together with the county commissioner now in office for the said County of Bernalillo, hold a meeting not later than the tenth day of April, 1903, and said three persons as a board of county commissioners for Bernalillo county shall appoint one assessor and one probate judge for the said County of Bernalillo to serve until their successors are elected and qualified at the next general election."

Sec. 2. On or before thirty days after said board of county commissioners of Bernalillo county has duly qualified as such commissioners, they shall assemble as a board of county commissioners and shall divide said County of Bernalillo into county commissioner districts.

Sec. 3. This act shall be in force and take effect from and after its passage.

CHAPTER 50.

AN ACT TO AMEND SECTION 2 OF AN ACT ENTITLED "AN ACT TO CREATE THE COUNTY OF SANDOVAL," APPROVED MARCH 10, 1903. *C. B. No. 128; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Section 2, chapter 27, Laws of 1903, regarding election of officers of Sandoval county. Amended.
- Sec. 2. County commissioners to divide Sandoval county into commissioner districts.
- Sec. 3. County seat located at Sandoval.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Sec. 1. That section 2 of the act to create the County of Sandoval, approved March 10, 1903, be and the same is hereby amended so as to read as follows:

"Sec. 2. The county officers for the said County of Sandoval, and their duties, shall be the same as those prescribed by law for officers of other counties in the Territory of New Mexico; and E. A. Miera and Esquipula Baca and Ignacio Gutierrez are hereby appointed and constituted county commissioners for the said County of Sandoval, and they shall qual-

ify as such county commissioners on or before the fifth day of April, A. D. 1903; and, after having so qualified, shall hold a meeting, not later than the tenth day of April, A. D. 1903, and appoint all other county officers for said County of Sandoval, who shall serve until their successors are elected at the next general election and qualified."

Sec. 2. Within thirty days after the said board of county commissioners of Sandoval county shall have duly qualified and organized, such board shall assemble at the county seat of said county and divide the said County of Sandoval into county commissioner districts.

Sec. 3. The town of Sandoval, in said Sandoval county, shall be and hereby is designated as the county seat for the said County of Sandoval.

Sec. 4. This act shall take effect and be in force from and after its passage, and all acts or parts of acts in conflict herewith are hereby repealed.

CHAPTER 51.

AN ACT GRANTING CERTAIN LAND IN THE CITY OF SANTA FE, TERRITORY OF NEW MEXICO, TO THE WOMAN'S BOARD OF TRADE AND LIBRARY ASSOCIATION OF SAID CITY. AS A SITE FOR A FREE PUBLIC LIBRARY BUILDING. *A. C. B. No. 96; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Tract of land granted. Description.
- Sec. 2. Tract of land to revert to territory unless library erected within four years or if not used for library purposes. Proviso.
- Sec. 3. All property not conducted for financial gain exempt from taxation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. There is hereby granted to the Woman's Board of Trade and Library Association, a body corporate at the City of Santa Fe, Territory of New Mexico, for a site for a free public library building, that certain tract of land situate in the City of Santa Fe, Territory of New Mexico, bounded and described as follows: Beginning at a point on Washington avenue where the wall along the south side of the United States military reservation is contiguous to said Washington avenue, and running thence along the west side of said Washington avenue one hundred feet south to a point; thence running one hundred and fifty feet in a westerly direction parallel with said wall to a point; thence in a northerly direction parallel with said Washington avenue one hundred feet to the

wall first mentioned on the south side of the United States military reservation; thence one hundred and fifty feet easterly along the south side of said wall to the point of beginning.

Sec. 2. In the event that a free public library building shall not be erected on the said tract of land hereby granted within the period of four years from and after the passage of this act and in the event of the said tract of land and the building or buildings to be hereafter erected thereon ceasing at any time to be used wholly or in part for a free public library building, then the said tract of land shall revert to the Territory of New Mexico: *Provided*, that nothing in this act shall be so construed as to prevent the erection of such building of sufficient size and dimensions as to include other rooms, or apartments besides those required for said free public library, which other rooms or apartments may be rented for other purposes than that of a free public library so as to obtain an income, which shall be used to pay off any incumbrance on such building and to support and maintain said free public library.

Sec. 3. That all property of such library association and all other associations or corporations not conducted for financial gain, but for the education or social advancement of the members thereof, is hereby exempt from taxation.

Sec. 4. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and effect from and after its passage.

CHAPTER 52.

AN ACT RELATING TO TRUST COMPANIES. *C. S. for C. B. No. 10; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Fifteen or more persons may incorporate. Contents of articles of agreement.
- Sec. 2. Articles of agreement. To be signed and filed in office of secretary. Certified copy to be filed with auditor and probate clerk.
- Sec. 3. Purposes for which corporations may be created.
- Sec. 4. Corporations may control safety vaults. Procedure in case rent of safe or box is not paid for two years.
- Sec. 5. Corporations may be appointed executor or administrator. May act as guardian, trustee, receiver, committee or act in any fiduciary capacity.
- Sec. 6. Corporation acting as fiduciary or surety to give bond by deposit with territorial auditor of not less than fifty thousand dollars (\$50,000.00). Proviso. Securities so deposited to be held by territorial treasurer.
- Sec. 7. Dividends. How declared.
- Sec. 8. Corporation not to make any loan or discount on the security of the shares of its capital stock. Limitation to indebtedness.

- Sec. 9. Capital stock. Amount to be subscribed and amount to be actually paid in. Affidavit to be filed. Corporations to advertise only their actually paid in capital. Penalty.
- Sec. 10. Reserve to be kept on hand. Auditor to investigate and take charge.
- Sec. 11. Reports to auditor. Publication. Special reports may be called for. Failure to report. Penalty. Auditor to take charge.
- Sec. 12. Auditor to investigate affairs of corporations at least twice a year. Special examiner may be appointed. Refusal of corporation to submit to examination. Penalty. Officers refusing to be examined under oath. Penalty.
- Sec. 13. Auditor's fees for filing reports and examination.
- Sec. 14. Misappropriation of funds or false entry in report of officers. Penalty.
- Sec. 15. Reduction of capital stock. Violation of charter. Auditor may take charge. Court to appoint receiver. Duties and compensation of receiver. Liability of shareholders.
- Sec. 16. Corporation may be depository of territorial moneys. Limitation on amount.
- Sec. 17. Board of directors. Election. Terms of office. Directors to take oath to be filed in auditor's office.
- Sec. 18. Each stock holder entitled to one vote on each share of stock held. May vote by proxy.
- Sec. 19. Officers of board directors. Powers and privileges.
- Sec. 20. Corporation. May purchase or lease real estate.
- Sec. 21. Building and loan associations. Reincorporation. Articles of agreement.
- Sec. 22. Articles of agreement of building and loan associations. To be filed as required by section 2. Proviso.
- Sec. 23. Building and loan associations. To furnish secretary of territory with satisfactory proof of solvency.
- Sec. 24. Directors of building and loan association to be directors of new corporation. Provision for additional directors. Term of office.
- Sec. 25. Capital of new corporation. Issuance of shares.
- Sec. 26. New corporation may make loans on shares of stock outstanding at time of reincorporation.
- Sec. 27. Dividends. How declared.
- Sec. 28. General incorporation law. How applicable.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any fifteen or more persons a majority of whom are residents of this territory, who shall have associated themselves by articles of agreement, in writing, as provided by this act, for any purposes included under this act, may be incorporated under any name or title designating such business. The articles of agreement shall set out: First, the corporate name of the proposed corporation, which shall not be the name of any other corporation heretofore incorporated in this territory for similar purposes, or an imitation of such name. Second, the name of the particular city or town and county in which the business of the corporation is to be carried on. Third, the amount of the capital stock of the corporation and the number of shares into which it is divided; the amount of capital stock actually subscribed in good faith at the time of filing such articles, which amount of capital stock actually subscribed shall not be less than two hundred and fifty thousand dollars (\$250,000.00); and said articles shall further state that one hundred thousand dollars (\$100,000.00)

of the capital stock so subscribed has been actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors or control. Fourth, the name and place of residence of the several shareholders and the number of shares subscribed by each. Fifth, the number of the board of directors or control, and the names of those elected; if more than five, the class to which each belongs, and the term of office of each class. Sixth, the number of years the corporation is to continue, which in no case shall exceed fifty years. Seventh, the purpose for which the corporation is formed.

Sec. 2. The articles of agreement shall be signed and acknowledged by the parties thereto before the secretary of the territory or some officer competent to take acknowledgment of deeds and filed in the office of the secretary of the territory. A copy of such articles of agreement, duly certified by the secretary of the territory, shall be filed in the office of the territorial auditor of public accounts and in the office of the probate clerk in the county in which the place of business of the corporation is to be located.

Sec. 3. Corporations may be created under this act for any one or more of the following purposes:

First, to receive money in trust, and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be agreed, not exceeding in either case the legal rate; to receive upon deposit for safe keeping money and personal property of every description; to guarantee special deposits, and to own and control a safety vault and to rent the boxes therein.

Second, to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to them by order, judgment or decree of any of the courts of record of this territory, or of any other territory, or of any state, or of the United States, or of any foreign state or government.

Third, to take, accept and hold, by order, judgment or decree of any court of this territory, or of any other territory, or of any state, or of the United States, or of any foreign state or government, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation any real or personal property in trust, and to execute and perform all such legal and lawful trusts in regard to the same, upon the terms, conditions, limitations and restrictions, which may be declared, imposed, established or agreed upon in and by such order, judgment, decree, gift, grant, assignment, transfer, devise or bequest, and to execute as principal or surety and to guarantee against loss any principal or surety upon any

bond or bonds required by law to be given in any proceedings in law or equity in any of the courts of this territory, or other territory or state, or of the United States.

Fourth, to act as agent or attorney in fact for any person or corporation in the management or control of real or personal property and the sale or conveyance of the same, and for the investment of money, and to act for and represent corporations for the purpose of issuing, registering, transferring and countersigning the certificates of stock, bonds or other evidences of debt of any corporation, association, municipality, state or public authority, on such terms as may be agreed upon.

Fifth, to accept from and execute trusts for married women in respect to their separate property, whether real or personal, subject to the general laws of the territory regulating the disposition or control thereof, and act as agent for them in the management of such property.

Sixth, to act as executor under the last will or as administrator of the estate of any deceased person, or as guardian of the estate or curator of any infant, insane person, idiot or habitual drunkard or convict.

Seventh, to guarantee the fidelity and diligent performance of their duty of persons or corporations holding places of public or private trust; to guarantee or become surety on any bond given by any person or corporation, and to re-insure or guarantee any person or corporation against loss or damage by reason of any risk assumed by insuring the fidelity or diligent performance of duty of any such person or corporation, or by guaranteeing or becoming surety on any bond; to guarantee the principal or interest, or both, of any securities of any kind, and to certify and guarantee titles to real estate.

Eighth, to loan money upon real estate and collateral security and to purchase, invest in and sell all kinds of government, state, municipal and other bonds and all kinds of negotiable and non-negotiable paper, and other investment securities.

Sec. 4. Any corporation which has been authorized, or may hereafter be authorized, to own or control a safety vault and rent the boxes therein, may, if the amount due for the use of any safe or box in the vault of such corporation shall not have been paid for two years, at the expiration thereof cause to be sent to the person in whose name such safe or box stands on its books, a notice, in writing, in a securely closed post paid registered letter, directed to such person at his postoffice address as recorded upon the books of the corporation, notifying such person that if the amount then due for the use of such safe or box is not paid within sixty days from the date of such notice, the corporation will then cause such

safe or box to be opened, in the presence of its president, or vice president, or secretary, or treasurer, and of a notary public not an officer or in the employ of the corporation, and the contents thereof, if any, to be sealed up by such notary public in a package, upon which said notary public shall distinctly mark the name and address of the person in whose name such safe or box stands upon the books of the corporation, and the estimated value thereof; and the package so sealed and addressed, when marked for identification by such notary public shall be placed by such notary public in one of the general safes or boxes of the corporation, and retained by the corporation, subject to the payment of all rent that may be unpaid, and of all expenses incurred in opening the safe or box, and also a reasonable compensation for the safe keeping of the contents after their removal from the safe or box.

Sec. 5. When any such corporation is appointed executor in any last will or testament, the court or officer authorized to grant letters testamentary in this territory shall, upon the proper application, grant letters testamentary thereon to such corporation. When application is made to any court or officer having authority to grant letters of administration with the will annexed upon the estate of any deceased person, or upon the estate of any deceased person who may have died intestate, and there is no person entitled to such letters who is qualified, competent, willing or able to accept such administration, such court or officer may at the request of any party interested in the estate, grant letters of administration to any such corporation. Any court or officer having authority to grant letters of guardianship of any infant, may upon the same application as is required by law for the appointment of a guardian of such an infant, appoint any such corporation as guardian of the estate of such infant. Any court having jurisdiction to appoint a trustee, guardian, or receiver, assignee or committee of the estate of a lunatic, idiot or habitual drunkard, or to make any fiduciary appointment, may appoint any such corporation to be such trustee, receiver, committee, or to act in any fiduciary capacity. Every court into which money may be paid by parties, or be brought by order or judgment, may, by order, direct the same to be deposited with any such corporation. And such corporation shall also be a legal depository for the funds in the hands of any trustees, guardian, receiver, assignee, committee or other officer of any court of this territory. Such court or officer may make orders respecting such trustees and require the corporation to render all accounts which such court or officer might lawfully require if such executor, administra-

tor, guardian, trustee, receiver, committee or depository were a natural person.

Sec. 6. Any such corporation which shall make with the auditor of the territory a deposit of not less than fifty thousand dollars (\$50,000.00) nor more than two hundred thousand dollars (\$200,000.00), as the auditor of the territory may from time to time require, consisting of cash, treasury notes of the United States, or government, state, or territorial bonds, or the bonds of any county of this territory which has not defaulted in the payment of any of its obligations or any interest thereon within five years from the time such bonds are offered to be deposited, and which shall satisfy said auditor of its solvency and shall have received the certificate of said auditor that said corporation has made said deposit and satisfied him of its solvency, it being hereby made the duty of said auditor to issue such certificate in accordance with the facts, shall be permitted to qualify as executor, administrator, guardian, trustee, receiver, assignee, committee or other fiduciary capacity, or under will, or depository of money in court, without giving bond as such, and become sole guarantor, or surety in or upon any bond required to be given under the laws of this territory, any other statute to the contrary notwithstanding, and as well to insure the fidelity of persons holding places of public or private trust, and whenever such corporation shall exhibit to the court, judge, clerk or other officer making such appointment, or whose duty it is to approve such bond, the certificate of the auditor of the territory that such corporation has complied with the provisions of this act with respect to said deposit and proof of solvency, the court or officer making such appointment, or whose duty it is to approve such bond, may appoint such corporation to such office or trust, and permit it to qualify as such without giving any bond, and permit such corporation to become sole guarantor or surety upon any bond required to be given under the laws of this territory, without requiring any other surety therefor. The fund so deposited with the auditor of the territory shall be primarily liable for the obligations of such corporation as executor, administrator, guardian, trustee, receiver, assignee, committee or other fiduciary capacity by appointment of any court, or under any will, depository of money in court when acting without bond, and as guarantor or surety in or upon any bond required to be given under the laws of this territory, and as well all bonds, contracts or guarantees of every kind or description, whereby the fidelity of persons holding places of public or private trust is insured or guaranteed, and shall not be liable for any other debt or obligation of the corporation until all trust liabilities as afore-

said of such corporation have been discharged. And the auditor of the territory shall, whenever any of the securities so deposited with him have depreciated in value or whenever it may appear to him that such securities are likely to depreciate in value, or whenever the interest on any of such securities remains unpaid for six months after it is due, require the corporation which deposited the same to remove them and deposit in their place other securities of the kind above specified equal in amount to those removed, and whenever any of the securities so deposited have been applied by law to the satisfaction of any of the obligations of such corporations he shall require others of like kind to be deposited in their stead. If any such corporation should fail to forthwith make such additional deposit of securities of the kind above named, when so required by the auditor of the territory as above provided, or if any such corporation should fail to forthwith deposit other securities of the kind above named in the place of those required by the auditor of the territory to be removed or taken by law to satisfy any of the aforesaid obligations of such corporation as above provided, such corporation shall not assume any further liability as executor, administrator, guardian, trustee, receiver, assignee, committee or other fiduciary capacity by appointment of any court, or under any will, depository of money in court, or as guarantor, surety or otherwise in or upon any bond or contract of any kind or description whereby the fidelity of persons holding places of public or private trust is insured or guaranteed until such deposit has been made: *Provided, however*, the auditor of the territory may permit any such corporation not having made a deposit of securities, or not having made an additional deposit of securities as may have been called for by the auditor, to qualify as executor, administrator, guardian, trustee, receiver, assignee, committee or other fiduciary capacity by appointment of any court, or under any will, or depository of money in court, upon the execution and approval of a bond as required by law in the case of individuals.

Whenever any securities are deposited with the auditor as above provided, he shall forthwith deliver them into the custody of the treasurer of the territory and the treasurer shall receive the same and shall be liable on his official bond for the safekeeping thereof and proper accounting therefor. A corporation depositing bonds shall be entitled to receive the interest thereon, unless an action at law has been commenced to subject such securities to the payment of any of the aforesaid obligations of the corporation. But this provision shall not relieve the auditor from any of the duties imposed upon him by this act, with reference to the supervision of such

securities and the treasurer shall hold the same subject to the control of such auditor, or of any district court having jurisdiction of any suit for recovery on any obligation of said company.

Sec. 7. The directors of any such corporation may semi-annually or annually declare a dividend of so much of the net profits of the corporation as they shall judge expedient; but each corporation shall, before the declaration of a dividend, carry at least one-tenth part of its net profits for the preceding half year or year to its surplus fund until the same shall amount to twenty per centum of its paid in capital stock; but such corporation shall not declare any dividend, except as hereinafter provided, until at least two hundred and fifty thousand dollars (\$250,000.00) of its capital stock has been actually paid into the corporation. If losses have at any time been sustained by any such corporation equal to or exceeding its undivided profits then on hand no dividend shall be made; and no dividend shall ever be made by any such corporation, while it continues its operation, to an amount greater than the net profits then on hand, deducting therefrom the losses and bad debts. All debts due to any such corporation on which interest is past due and unpaid for a period of six months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section, but this section shall not be construed to define bad debts as those only upon which interest is past due for a period of six months.

Sec. 8. No such corporation shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, except as hereinafter provided, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; or in default thereof, a receiver may be appointed to close up the business of such corporation. The total liabilities to any such corporation, of any person, or any corporation, company or firm for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed twenty per centum of the amount of the capital stock of such corporation actually paid in. The total liabilities to any such corporation, of any officer, director, employee or agent of such corporation, for money borrowed or otherwise, shall at no time exceed ten per centum of the amount of the capital stock of such corporation actually paid in.

Sec. 9. The amount of capital stock of any such corpora-

tion actually subscribed shall not be less than two hundred and fifty thousand dollars (\$250,000.00), and not less than one hundred thousand dollars (\$100,000.00) of the capital stock so subscribed must have been actually paid up in lawful money of the United States and in the custody of the persons named as the first board of directors or control at the time of the filing of the articles of agreement as provided in section 2 of this act. And there must be attached to such articles of agreement at the time they are lodged with the secretary to be filed the affidavit of at least a majority of persons named in such articles as the first board of directors to the effect that not less than two hundred and fifty thousand dollars (\$250,000.00) of the capital stock of such corporation has been actually subscribed, and that one hundred thousand dollars (\$100,000.00) of the stock so subscribed has been actually paid to them in lawful money of the United States and in their hands and control at the time of making such affidavit. Corporations organized under this act shall only advertise and display their actual paid in capital, surplus and undivided profits, and not their authorized capital, unless the same has been fully paid up, and for any violation of this provision, the corporation violating it shall be subject to a penalty of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) for each offense, which penalty may be collected by suit before any district court of this territory.

Sec. 10. Every such corporation shall at all times have on hand, in lawful money of the United States, an amount at least equal to fifteen per centum of the aggregate amount of its liabilities other than its liabilities for which bonds in an amount not less than fifty thousand dollars (\$50,000.00) are required to be deposited with the auditor of the territory; and whenever the lawful money of the United States of any such corporation shall be below the amount above required to be kept on hand, such corporation shall not increase its liabilities by making new loans; nor make any dividends of its profits until the required amount to be kept on hand has been restored. And the auditor of the territory may notify any corporation, whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve, and if such corporation shall fail for sixty days thereafter so to make good its reserve of lawful money, the auditor of the territory may take charge of such corporation, close its doors, make a thorough examination of its affairs and take such proceedings as the nature of the case may require. Three-fifths of the reserve required to be kept, may consist of balances due such corporation from any national, state or

territorial banks or from any trust companies designated by the auditor of the territory.

Sec. 11. Every such corporation shall make to the auditor of the territory not less than four reports during each year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or secretary of such corporation, and attested by the signature of at least three directors. Each such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the corporation at the close of business, on any past day by him specified, and shall be transmitted to the auditor within fifteen days after the receipt of a request or requisition therefor from him, and in the same form in which it is made to the auditor shall be published in a newspaper published in the place where such corporation is located, or where its principal place of business is located, or if there is no newspaper in the place, then in one published nearest thereto in the same county, and proof of publication shall be furnished as may be required by the auditor. The auditor shall also have power to call for special reports from any particular corporation, whenever in his judgment the same are necessary in order to obtain a full and complete knowledge of its condition. Every such corporation which fails to make, transmit or publish any report required under this section, shall be subject to a penalty of fifty dollars (\$50.00) for each day after the period herein mentioned, that it delays to make, transmit or publish such report, and if such failure shall continue for a period of thirty days the auditor of the territory may take charge of such corporation, close its doors, make a thorough examination of its affairs, and take such proceedings as the nature of the case may require. The penalty herein provided may be collected by suit before any district court in the territory.

Sec. 12. The auditor of the territory shall between the first day of January and the last day of June of each year and between the first day of July and the last day of December of each year, and at such other times as he may deem it necessary in order to obtain a full and complete knowledge of its conditions, make a thorough examination into all the affairs of every such corporation, and in doing so to examine any of the officers or agents thereof under oath. The auditor may appoint a suitable person to make such examinations for him and such examiner shall have the same powers in making such examinations as are given by law to the auditor, and he shall make a full and detailed report of the condition of every such corporation examined to the auditor. Before entering into the discharge of his duties such examiner shall make, sub-

scribe to and file in the office of the auditor, an oath to faithfully discharge the duties of his office as such examiner, and shall execute a bond to the territory in such sum as the auditor may require, with sufficient surety or sureties conditioned for the faithful discharge of the duties of his office. Such bond shall be approved by the auditor and filed in his office. If any such corporation shall refuse to submit to an examination required by this section it shall be subject to a penalty of one thousand dollars (\$1,000.00) for such refusal and the auditor of the territory may take charge of such corporation, close its doors, make a thorough examination of its affairs and take such proceedings as the nature of the case may require. If any officer or director thereof shall refuse to be examined under oath touching the affairs of such corporation, such officer or director shall be subject to a penalty not to exceed five hundred dollars (\$500.00) for such refusal and the auditor of the territory may in addition remove such officer or director. The penalties herein provided may be collected by suit before any district court of this territory.

Sec. 13. The auditor of the territory shall receive the following compensation for the services required by the two foregoing sections: For filing each report required by section 11, five dollars (\$5.00), to be paid by the corporation filing the report; for each examination made as required by section 12, fifty dollars (\$50.00) and traveling expenses incident to such examination, to be paid by the corporation examined. The auditor or examiner making the examination shall render such corporation an itemized statement of such traveling expenses verified by his oath.

Sec. 14. Every president, director, secretary, clerk or agent of any such corporation, who embezzles, abstracts or wilfully misapplies any of the moneys, funds or credits of the corporation, or who, without authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, mortgage, judgment, or decree, or who makes any false entry in any book, report, or statement of the corporation, with intent, in either case, to injure or defraud the corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of the corporation, or any agent appointed to examine the affairs of any such corporation; and every person who with like intent aids or abets any officer, clerk or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five nor more than ten years.

Sec. 15. Whenever it shall appear to the auditor of the territory that the capital stock of any such corporation is reduced by impairment or otherwise below the amount required

by law, he shall require such corporation to make good the deficiency within three months by assessment upon the shareholders pro rata for the amount of capital stock held by each and on its failure to do so, he may take charge of such corporation, close its doors, make a thorough examination of its affairs and take such proceedings as the nature of the case may require. Whenever it shall appear to the auditor of the territory that any such corporation has violated its charter or any law of this territory, or is conducting business in an unsafe and unauthorized manner, he shall by an order under his hand and seal, addressed to such corporation, direct a discontinuance of such illegal or unsafe practices and conformity with the requirements of its charter, and with safety and security in its transactions; and, whenever, from a thorough examination of the affairs of any such corporation, as required by this act, or (if having taken charge of any such corporation under the provisions of this act and having made such examination of its affairs, it shall appear to the auditor of the territory that it is unsafe and inexpedient for such corporation to continue business he may take charge of such corporation, if not already in charge thereof, close its doors, if not already closed, and forthwith report such facts to the governor of the territory, whose duty it shall be to immediately require the solicitor general of the territory to institute proceedings in the name of the territory before the district court of the district within which is located the city or town in which the business of such corporation is carried on or any other district court authorized to act, for the appointment of a receiver for such corporation; and it shall be the duty of such court to appoint such receiver in event it appears in said proceedings to the satisfaction of said court that it is unsafe or inexpedient for such corporation to continue business or in event such court shall find therein that such corporation has been guilty of illegal or unsafe practices in the conduct of its business and has refused to desist therefrom after written notice so to do from said auditor; and such court shall require of such receiver, such bond and security as may be deemed proper and sufficient and such receiver, under the direction of said court, shall take possession of the books, records, and assets of every description of such corporation, collect all debts, dues, and claims belonging to it, and upon the order of a court of record of competent jurisdiction, may sell or compound all bad and doubtful debts, and, on a like order, may sell all the real and personal property of such corporation, on such terms as the court shall direct; and may, if necessary to pay the debts of such corporation, enforce the individual liability of the stockholders. Such receiver shall

conduct his office under the direction of the court having jurisdiction, make full report thereto when required of all his acts and proceedings and disburse all moneys collected and perform such other acts and duties as may be directed by the court. Any receiver appointed under the provisions of this act shall be entitled to receive reasonable compensation for the services rendered, same to be paid out of the money and assets belonging to such corporation. The shareholders of every such corporation shall be held individually responsible equally and ratably, and not one for another, for all contracts, debts and engagements of the corporation, to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares.

Sec. 16. Any such corporation shall have the right to become a depository of territorial moneys to an amount not exceeding forty per centum of its paid up capital stock upon complying with the provisions of section 255 of the Compiled Laws of the territory.

Sec. 17.—The affairs of each of such corporations shall be managed by not less than five directors, who shall respectively be the owners of not less than ten shares of the capital stock of such corporation, and a majority of whom shall be bona fide citizens of this territory. And after the amount of stock required by this act of any such proposed corporation has been actually subscribed and at least one hundred thousand dollars (\$100,000.00) in lawful money of the United States has been paid into the hands of one of the subscribers to the capital stock to be turned over to the directors when elected, such subscribers shall hold a meeting and name the number of directors to manage the affairs of the proposed corporation and elect such directors. If the number named is five, they shall be elected for one year; if more than five and less than fifteen the number shall be divided into three classes as near as may be, the first class to be elected for three years, the second class to be elected for two years and the third class to be elected for one year; if fifteen or more the number shall be divided into five classes as near as may be, the first class to be elected for five years, the second class for four years, the third class for three years, the fourth class for two years, and the fifth class for one year; and at each annual election of such corporation to be held at such time and place as shall be directed by the by-laws, directors shall be elected for a term of one, three or five years, as the case may be, to fill the vacancies created by the retiring directors. The number of directors may be increased or decreased in such manner as the by-laws of the corporation may prescribe, but no provisions for the decrease of the number of directors

shall take effect except at the expiration of the term of office of a director or directors. Each director before entering on the discharge of the duties of his office shall make an oath that he will, so far as the duties devolve on him, diligently and honestly administer the affairs of such corporation and will not knowingly violate, or wilfully permit to be violated, any of the provisions of law applicable to such corporations. Such oath shall be subscribed by the director making it, and be certified by the officer before whom it is taken, and shall be immediately transmitted to the auditor of the territory and filed and preserved in his office.

Sec. 18. At all meetings of the stockholders of any such corporation each stockholder shall be entitled to one vote on each share of stock standing in his name on the books of the company. Stockholders may vote by proxies duly authorized in writing.

Sec. 19. The directors of such corporations shall elect, from among the directors, a president, vice presidents and a secretary, whose respective terms of office shall expire with their respective offices as directors of such corporation, and such officers may be removed for cause. The directors shall have the power to appoint such other officers, agents and servants as the business of the corporation shall require, to define their power and to remove them at will. They shall prescribe the duties and fix the compensation of all officers, agents and servants and require of them such security as may be thought proper for the fulfillment of their duties. Such corporation shall have power to prescribe, by its directors, by-laws not inconsistent with law, regulating the manner in which its stock shall be transferred, its property transferred, its general business conducted and the privileges granted to it by law exercised and enjoyed, and shall likewise have power to change, amend or repeal such by-laws, but in adopting such by-laws or in changing, amending or repealing same, a two-thirds vote of all of the directors shall be necessary.

Sec. 20. Any such corporation may purchase, hire or take upon lease any building for conducting its business and may adopt and furnish the same and may purchase, hire or take upon lease any land for the purpose of erecting thereon a building for conducting its business, and may sell, exchange or let such building, or any part thereof. Any such corporation may purchase real estate under its own foreclosure proceeding, judgment or lien, or whenever it may be necessary to protect itself from loss, and the same shall be converted into money by sale as speedily as may be without detriment to the interests of the corporation.

Sec. 21. Any association organized, or which may hereafter be organized, under chapter 72 of the acts of the 33rd Legislative Assembly of this territory, approved March 16, 1899, entitled "An Act relating to building and loan associations and providing penalties for failure to comply therewith, and repealing all acts in conflict therewith," having assets of not less than one hundred thousand dollars (\$100,000.00) invested its first mortgages on improved real estate in this territory, of which assets no less than seventy-five thousand dollars (\$75,000.00) shall have been accumulated from dues or assessments and profits on the shares of the capital stock of such association, may be reincorporated under the provisions of this act, and when so incorporated shall have all the powers hereinbefore and hereinafter conferred, upon the stockholders of such association unanimously expressing their wish so to do in writing, or unanimously expressed by a vote at a meeting of the stockholders to be held on thirty days' written notice mailed to each of the stockholders at the last postoffice address furnished the association, whereupon a majority of the directors of such association may execute the articles of agreement required by this act. Such articles of agreement shall set out: First, the corporate name of the proposed corporation, which shall not be the name of any other corporation heretofore incorporated in this territory for similar purposes, or an imitation of such name; second, the name of the particular city or town and county in which the business of the corporation is to be carried on; third, that such association was organized under chapter 72 of the acts of the Thirty-third Legislative Assembly of this territory, approved March 16, 1899, entitled "An Act relating to building and loan associations, and providing penalties for failure to comply therewith, and repealing all acts in conflict therewith," and has assets of more than one hundred thousand dollars (\$100,000.00) invested in first mortgages on improved real estate in this territory, of which assets more than seventy-five thousand dollars (\$75,000.00) have been accumulated from dues or assessments and profits on the shares of the capital stock of such association; fourth, the number of the board of directors or control and the names of those elected, if more than five, the class to which each belongs, and the term of office of each class; fifth, the number of years the corporation is to continue, which in no case shall exceed fifty years; sixth, the day the reincorporation is to take effect; seventh, the authority upon which such action is taken; eighth, the purposes for which the corporation is formed.

Sec. 22. Such articles of agreement shall be acknowledged and filed as required by section 2 of this act, and the

reincorporation shall take effect on the day named in the articles of agreement, when such former association shall be deemed dissolved, and the corporation, as reincorporated, shall be deemed a corporation, entitled to all the privileges and subject to all the liabilities prescribed in this act, and all the property of the dissolved association shall immediately by act of law and without any conveyance or transfer be vested in and become the property of the new corporation, and the outstanding stock and the stockholders of the dissolved association shall likewise become the stock and stockholders of the new corporation and the new corporation shall, by act of law, fulfill and be liable for the contracts, debts and obligations of the dissolved association: *Provided, however,* that not more than ten per centum of the amount of dues or installments received during any month on the shares of such dissolved association, outstanding at the time of dissolution, shall be withdrawn and paid out on such shares during that month, until the paid in capital of such new corporation shall be two hundred and fifty thousand dollars (\$250,000.00) or more, and no such payment shall be made thereafter that will reduce said paid in capital below two hundred and fifty thousand dollars (\$250,000.00).

Sec. 23. Any such association desiring to avail itself of the provisions of this act and reincorporate hereunder, shall at the time of filing its articles of agreement with the secretary of the territory, furnish satisfactory proof to such officer, that it has not less than one hundred thousand dollars (\$100,000.00) invested in first mortgages on improved real estate in the territory; and also satisfactory proof that the real estate pledged as security for the respective loans, is adequate security for the amount loaned thereon, to the aggregate amount of not less than one hundred thousand dollars (\$100,000.00), at the time of filing the articles of agreement, and shall also satisfy the secretary of the territory that all other statements of fact contained in the articles of agreement are true, and shall also satisfy him of its solvency.

Sec. 24. If the authority of such reincorporation is written authority of the holders of the shares of such association as provided in section 21 of this act, the directors of such association shall be the first directors of the new corporation, and, if the by-laws of such new corporation prescribe a larger number of directors, such first directors shall be directors of the third or fifth class as the case may be, and the additional directors shall be elected and assigned to a class by the board of directors as it exists at the time of such election. If such authority is given by a vote at a meeting of the stockholders of such association as provided in section 21

of this act, such meeting may by a like vote prescribe the number of directors and elect any or all of the number prescribed, and, if the number prescribed is more than five, assign those elected to a class.

Sec. 25. The capital of such new corporation shall consist of the accumulated payments and the credited dividends on its stock and shall be divided into shares of the par value of one hundred dollars (\$100.00). Such shares shall be issued upon such terms of payment and expense and surplus provisions as such new corporation may have provided at the time of the issue thereof, and such new corporation may enforce the payments of any installments, dues or other payments on the stock, by sale, forfeiture or otherwise, as may be provided by its by-laws.

Sec. 26. Such new corporation may grant loans on the shares of stock of the dissolved association outstanding at the time of the reincorporation to the same extent and in the same manner as if such reincorporation had not been made.

Sec. 27. The directors of such new corporation may semi-annually or annually or at such other time as they may elect, declare a dividend of so much of the net profits of the corporation as they shall judge expedient, but each such corporation shall, before the declaration of a dividend, carry one-tenth part of its net profits for the preceding dividend period to its surplus fund until the same shall amount to twenty per centum of its paid in capital stock. The dividend so declared may be paid to the stockholder or credited to the account of his stock as the terms of its issue may provide. If losses have at any time been sustained by any such new corporation equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any such new corporation, while it continues its operations, to an amount greater than the net profits then on hand, deducting therefrom its losses and bad debts. All debts of any such corporation, on which interest is past due and unpaid for a period of six months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section, but this section shall not be construed to define bad debts as those only upon which interest is past due for a period of six months.

Sec. 28. The provisions of the general incorporation act, entitled "An Act to creat a general incorporation act, permitting persons to associate themselves together as bodies corporate, for mining, manufacturing, and other industrial pursuits," approved December 27th, 1867, and all acts in amendment thereof, so far as the same shall apply to incorporations incorporated under this act, shall be held to be

applicable thereto, and all acts and parts of acts in conflict herewith are hereby repealed; and this act shall take effect and be in force from and after its passage.

CHAPTER 53.

AN ACT CREATING TWO ARMORY BOARDS OF CONTROL AND PROVIDING FOR THE CONSTRUCTION OF ARMORIES IN THE CITIES OF LAS VEGAS AND ALBUQUERQUE, AND AUTHORIZING AN ISSUE OF BONDS THEREOF. *C. B. No. 114; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Armory boards created. Appointment.
- Sec. 2. Boards of control. Duties.
- Sec. 3. Boards of control. How constituted.
- Sec. 4. Members of boards of control. Terms of office.
- Sec. 5. Board of control. A body corporate.
- Sec. 6. Boards of control. Organization. Adoption of rules. Meetings.
- Sec. 7. Treasurer to give bond.
- Sec. 8. Bonds to be issued to erect armories. Form. Rate of interest. Sale. Disbursement of proceeds of sale.
- Sec. 9. Levy for payment of interest and principal of the bonds. Proviso.
- Sec. 10. Lands for armories to be donated.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. For the purpose of providing suitable buildings for the use of the national guard organization located at the cities of Las Vegas and Albuquerque, there are hereby created two armory boards of control, to be appointed by the governor of the territory as hereinafter provided.

Sec. 2. It shall be the duty of said boards of control to contract for and to superintend the erection of said armory buildings, and thereafter administer the affairs pertaining to such buildings for their respective cities.

Sec. 3. The adjutant general of the territory and four commissioned officers of the national guard, stationed at Las Vegas, shall constitute the board having supervision of the armory located at Las Vegas; and the adjutant general of the territory and four commissioned officers of the national guard, stationed at Albuquerque, shall constitute the board having supervision of the armory located at Albuquerque.

Sec. 4. Within thirty days after the passage of this act, the four commissioned officers of each board as herein provided for, shall be appointed to serve as follows: One to serve one year, one to serve two years, one to serve three

years, one to serve four years; and thereafter one appointment shall be made annually for the term of four years.

Sec. 5. Each board of control, and its successors in office, shall constitute a body corporate under the name of armory board of control, with name of city where located as a prefix, and shall have all the privileges of a body corporate.

Sec. 6. Each board of control shall meet in its respective city and organize not later than the second Tuesday in May, 1903. The officers of each board shall be a president, who shall be the ranking officer of the national guard in his respective city, and a secretary and a treasurer, who shall be elected by the board from its members. The board shall adopt such rules and regulations as may be necessary to accomplish the objects for which it is organized. Each board shall meet quarterly and special meetings may be held as provided for in the rules. Three members shall constitute a quorum for the transaction of business. The members and officers of said boards, as such, shall serve without compensation.

Sec. 7. The treasurer of each board of control shall, before entering upon the duties of his office, execute a good and sufficient bond to the Territory of New Mexico in the sum of two thousand dollars (\$2,000.00), conditioned upon the faithful discharge of his duties, which said bond shall be approved by the governor of the territory, and shall be filed with the secretary of the territory.

Sec. 8. For the purpose of providing funds for the erection of said armory buildings in the cities of Las Vegas and Albuquerque, an issue of coupon bonds of the Territory of New Mexico is hereby authorized, to the amount of fifteen thousand dollars (\$15,000.00), to be known as "Armory Building Bonds of the Territory of New Mexico." Such bonds shall be in the usual form of coupon bonds, payable to bearer, and in the denomination of one thousand dollars (\$1,000.00) each; shall be dated April first, 1904; shall bear interest at the rate of four per centum per annum, payable semi-annually, on the first days of April and October; principal and interest shall be payable at the National Bank of Commerce, in the City of New York; such bonds shall be payable in thirty years from their date, with the right of the territory to pay them at any time after twenty years from their date. Such bonds shall be signed by the governor and treasurer and countersigned by the auditor of public accounts of the Territory of New Mexico, and the coupons may have the lithographed or engraved fac simile signature of the territorial treasurer; and the secretary of the territory shall affix the great seal of the territory to the bonds, and the bonds shall

duly be registered in the territorial bond registers in the offices of the auditor and treasurer by those officers. The bonds shall be duly advertised and sold by the territorial treasurer to the highest and best bidder, for not less than their par value and the proceeds of such sale shall be turned in to the territorial treasurer. The necessary expenses of the printing, advertising and selling the bonds shall be paid out of the proceeds of the sale of the bonds. The proceeds of the sale of the bonds shall be disbursed as follows: One-half upon the order of the Las Vegas armory board of control, and one-half upon the order of the Albuquerque armory board of control, for the construction of the armory buildings herein provided for.

Sec. 9. To provide for the semi-annual interest of the bonds authorized in section 8, the auditor shall levy annually, at the time of levying other territorial taxes, beginning with the year 1904, such a tax on all taxable property in the Territory of New Mexico, as may be necessary to produce the amount of such interest; and for the payment of the interest accruing October first, 1904, the sum of three hundred dollars (\$300.00) is hereby appropriated, payable out of funds appropriated for armory rent for 1904. To provide for the payment of the bonds, the auditor shall levy annually, beginning with the year 1924, such tax, on all the taxable property in the Territory of New Mexico, as will be sufficient to pay all the bonds at or before their maturity, such levy to be made at the same time and in the same manner as other territorial tax levies are made, and duly certified to the proper authorities charged with the levy of taxes in the several counties of the Territory of New Mexico, whose duty it shall be to see that said levies are duly made, assessed and collected: *Provided*, that upon default in the payment of the interest coupons of the bonds herein authorized, that the said defaulted coupons shall be received in payment of any taxes due the territory, upon presentation to the tax collector of any county in the territory.

Sec. 10. No action for the preparation or sale of the bonds provided for in section 8 shall be taken until deeds for sites, not less than fifty feet by one hundred and forty-two feet in each city and located satisfactorily to the boards of control of their respective cities, the title to which has been approved by the attorney general, shall have been delivered to the secretary of the territory, and which said sites shall be furnished free of expense to the territory of New Mexico, nor until this act has been duly approved or authorized by the congress of the United States of America.

Sec. 11. This act shall be in force and effect from and after

after its passage, and all acts, or parts of acts in conflict with the provisions of this act are hereby repealed.

CHAPTER 54.

AN ACT TO ESTABLISH THE OFFICE OF TRAVELING AUDITOR AND BANK EXAMINER FOR THE BENEFIT OF THE TERRITORY AND THE SEVERAL COUNTIES AND FOR OTHER PURPOSE. *C. B. No. 88; Approved March 12, 1903.*

CONTENTS.

- Sec. 1. Office of traveling auditor and bank examiner created. Appointment. Term of office. To give bond. Salary.
- Sec. 2. Duties of traveling auditor.
- Sec. 3. Duties of county treasurers and collectors. Penalty.
- Sec. 4. Duties of traveling auditor as to tax rolls.
- Sec. 5. Duties of county assessors. Penalty.
- Sec. 6. Traveling auditor to examine banks and other moneyed corporations.
- Sec. 7. Duties of officers of banks and other institutions.
- Sec. 8. Failure of bank and other officers to conform with section 7. Penalty.
- Sec. 9. Reports of banks, loan and trust companies and other moneyed corporations to be made to traveling auditor.
- Sec. 10. Traveling auditor shall have power to issue subpoenas and administer oaths. Refusal to comply with requirements. Penalty.
- Sec. 11. Report of traveling auditor to be made to governor.
- Sec. 12. Delinquent taxes. Duty of auditor in balancing and closing accounts. County commissioners may compromise delinquent taxes. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The office of traveling auditor and bank examiner is hereby created and established, and the governor is hereby authorized and directed to appoint some suitable person, who shall be a skilled accountant, to that position, who shall serve for two years and until his successor is appointed. He shall be a territorial officer, and within thirty days after his appointment shall qualify by taking the oath of office prescribed by law for other territorial officers and by giving bond to the Territory of New Mexico, with sufficient sureties, to be approved by the governor, in the sum of ten thousand dollars (\$10,000.00), for the faithful discharge of the duties of his office. Such traveling auditor and bank examiner shall maintain his office at the territorial capitol in that of the auditor of public accounts. He shall receive a salary of two thousand dollars (\$2,000.00) per annum, payable monthly; and twelve hundred dollars (\$1,200.00) per annum additional for traveling and contingent expenses of his office; to be paid out of the salary fund, in the same manner as other

territorial officials are now paid, both as to salary and contingent expenses.

Sec. 2. It shall be the duty of such traveling auditor and bank examiner to personally visit each county seat in the territory, at least twice in each year, and oftener if he may deem it necessary for the benefit of the territory or said county or on the request of the board of county commissioners of said county or upon the direction of the governor. It shall be his duty to adopt and prescribe a simple and uniform system of keeping accounts in the several counties by the different treasurers and collectors thereof, he shall examine and audit the accounts of the said treasurers and collectors as to territorial taxes and report to the county commissioners in writing, the result, with his recommendations in reference to the same. It is hereby made the duty of said treasurers and collectors to conform their method of bookkeeping and the making of reports, both to the territorial treasurer and the auditor of public accounts, to the recommendations made by the said traveling auditor and bank examiner. Books of account, records and all blanks, so recommended to be used by the traveling auditor and bank examiner, to be uniform and to be furnished said county treasurers and collectors free of charge by the territory, through the office of the traveling auditor and bank examiner, and for such purpose the appropriation now made by the territory for the printing of tax rolls is hereby increased the additional sum of five hundred dollars (\$500.00) per annum. It shall further be the duty of said traveling auditor and bank examiner to examine into, and report to the governor in writing, the character and amount of all outstanding bonds of each county, the time and law under which same were issued, when by their terms due, rate of interest, and the steps that are taken to provide for the payment of same; such reports to be made by the said traveling auditor and bank examiner upon blanks to be prepared by him and printed by the public printer, and paid for by warrant drawn on the salary fund and charged against his contingent account, and such report shall contain such recommendations to the governor as he may deem necessary with reference to the particular county audited, and shall be made as soon as practicable after he shall have examined each county. In his report he shall also state the assessed value of each county for taxation purposes, the amount of levy of taxes made each year, and for what purpose, the character and condition of the public property and such other information with regard to the financial affairs of the county as he may deem necessary for the information of the governor. It shall also be his duty to consult with and ad-

vise the assessor, probate clerk, collector and board of county commissioners with reference to the method of assessing property and levying and collecting the territorial and county tax thereon. He shall consult with and be advised by the auditor of public accounts and the solicitor general in regard to the assessment, levy and collection of taxes for territorial purposes, and be guided by them in his directions to the different county officers.

Sec. 3. It shall be the duty of the county treasurers and collectors to assist the traveling auditor and bank examiner in his duties as prescribed in section 2, and to allow him full and free inspection of all records, books, papers and documents pertaining to their respective counties, and any person holding such county office who shall obstruct or interfere with the performance of such duties or fail in any manner to assist him in the same, as provided in this act, or shall refuse to allow him to examine the books, papers and documents pertaining to said office, shall be deemed guilty of malfeasance in office, and may be summarily removed therefrom and fined in any sum not exceeding five hundred dollars (\$500.00), in the discretion of the judge hearing the complaint against said officer.

Sec. 4. It shall be the duty of the traveling auditor and bank examiner to supervise the compilation of the tax rolls of the several counties of the territory, and on or before the first day of October each year, prepare and lay before the territorial board of equalization, for its information, a general abstract of the taxable property of the territory, which abstract shall show by counties the valuations of the different classifications of property as enumerated in tax schedules returned by tax payers, average valuation fixed for taxation purposes on such different classifications of property by boards of county commissioners, assessed valuation, amount of exemptions allowed and net valuation for taxation purposes as certified to auditor of public accounts together with a written report containing such other and further information as will assist the territorial board of equalization in the performance of its duties.

Sec. 5. It shall be the duty of the county assessors to assist the traveling auditor and bank examiner in his duties as prescribed in section 4, to compile assessment rolls, and abstracts, in manner and form as prescribed and directed by said traveling auditor and bank examiner, and to allow him full and free inspection of all records, books, papers and documents pertaining to their respective counties, and any person holding such county office who shall obstruct or interfere with the performance of such duties or fail in any man-

ner to assist him in the same as provided in this act, or shall refuse to allow him to examine the books, records, papers and documents pertaining to said office shall be deemed guilty of malfeasance in office, and may be summarily removed therefrom and fined in any sum not exceeding five hundred dollars (\$500.00), in the discretion of the judge hearing the complaint against such officer.

Sec. 6. The traveling auditor and bank examiner shall in like manner, and with like authority as hereinbefore set forth, visit, without prior notice, each of the banking, savings and other moneyed corporations created under the laws of the territory. He shall thoroughly examine into their affairs, and ascertain their financial condition, at least once in each year. He shall carefully inspect and verify the validity and amount of the securities and assets held by such institutions. He shall examine into the validity of mortgages held by savings banks, and see that same are duly recorded. He shall ascertain the nature and amount of any discounts, or other banking transactions which he may deem foreign to the legitimate and lawful purposes of savings institutions. He shall inquire into and report any neglect or infringement of laws governing banking and moneyed and savings institutions, and for such purposes shall have power to examine the officers, servants, agents and employees thereof and persons doing business therewith.

Sec. 7. To enable the traveling auditor and bank examiner to properly perform the services required of him, the trustees and financial officers of all banking, moneyed and savings institutions herein referred to, shall furnish all reasonable and needed facilities to said traveling auditor and bank examiner.

Sec. 8. Any officer of any banking, moneyed or savings institution, or other moneyed corporation of this territory, who shall fail to furnish all reasonable and needed facilities to said traveling auditor and bank examiner, as hereinbefore provided, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500.00), or by imprisonment for not less than six months, or by both such fine and imprisonment.

Sec. 9. Whenever in the laws of New Mexico, reports are required to be made to the secretary or treasurer of the territory, by any banks, savings banks or institutions, loan and trust companies, such reports shall be made to the traveling auditor and bank examiner, and all the duties connected with such institutions prescribed for the secretary and the treasurer, are hereby transferred to the traveling auditor and bank examiner, who shall assume and perform the same

as though he were specially named in said laws instead of such secretary and treasurer; and he shall do and perform all and each of such duties, in addition to those here prescribed, as a part of his official duties hereunder. And all certificates, reports and other documents and papers relating to banks, or loan companies, now on file with the secretary, auditor or treasurer of the territory, shall be at once transferred to the traveling auditor and bank examiner, who shall thereafter have the control and custody of the same.

Sec. 10. The traveling auditor and bank examiner may issue subpoenas and administer oaths in the same manner, and with the same power to enforce obedience thereof, in the performance of his said duties, as belonging and pertaining to courts of law in this territory. Any person refusing access to the traveling auditor and bank examiner to any such books or papers, or any trustee, manager or any officer, agent, clerk, employe, or other person aforesaid, who shall, in any manner hinder the full and complete examination required by this act, of the officers, or of the books, accounts, papers and finances of such moneyed, banking and savings institutions, or pertaining to the county officers aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars (\$500.00), or imprisonment in the penitentiary for a period of not less than six months, or both.

Sec. 11. The traveling auditor and bank examiner shall make a separate written report to the governor of all his official doings as bank examiner and shall embody therein an abstract of the condition, assets and liabilities of the several institutions, separately by name; with such suggestions and recommendations as he may deem necessary to carrying out the object and intent of this act more effectively.

Sec. 12. All delinquent taxes hereinafter collected on account of taxes levied prior to and including the year 1901, shall be by the several county collectors and treasurers turned into the general county fund and the general school fund of the various counties in which the same are collected, and all such taxes so collected shall be equally distributed for the credit of such funds and the auditor of public accounts is hereby directed to balance and close the accounts of the territory with the various sheriffs and ex-officio collectors, treasurers and collectors, of the territory, for such territorial taxes levied for such years and to give full credit and complete discharge, in the name of the territory, to such collectors and treasurers, sheriffs and ex-officio collectors, and make the proper entries thereof upon his books. And the board of county commissioners of the various counties shall

be, and they hereby are authorized and empowered to make any adjustment, compromise or settlement of such delinquent taxes due and owing to the county, in all cases wherein they may deem it fair and equitable and to the best interests of their several counties, and whenever an order shall be made by any board of county commissioners amending, altering or changing any assessment of property or the amount of taxes to be paid thereon, on presentation of a copy of such order to the treasurer and ex-officio collector of the county, he shall amend, change or alter the tax roll in his office to conform with such order and issue his receipt for the amount of taxes paid in conformity therewith: *Provided, however*, this act shall apply only to taxes levied prior to and including the year 1901; and, *provided, further*, no order so made shall effect any rights which may have been heretofore acquired by purchasers, other than the county, at any tax sale, nor shall it affect any rights of persons holding certificates of sale for taxes purchased from the county. The said board of county commissioners, may if they deem it for the best interest of said county, contract with an attorney at law for the collection of any and all taxes, delinquent and levied and assessed prior to and including the year A. D. 1901.

Sec. 13. All acts and parts of acts in conflict herewith are repealed and this act shall take effect and be in force from and after its passage.

CHAPTER 55.

AN ACT TO AMEND THE LAWS RELATIVE TO THE SHEEP SANITARY BOARD. *C. B. No. 115; Approved March 14, 1903*

CONTENTS.

- Sec. 1. Section 160, Compiled Laws of 1897, regarding members of sheep sanitary board, Amended.
- Sec. 2. Sheep. No inspection required when inspected by inspector of department of agriculture.
- Sec. 3. Sheep coming into the territory. Inspectors to examine as to brands, shipper and to whom shipped. Fees for inspection. Proviso.
- Sec. 4. Sheep going out of the territory. Inspectors to examine as to brands and marks. Bill of sale required. Fees. Sanitary inspection. Unlawful to ship without bill of clearance. Penalty. Proviso. Inspector to report.
- Sec. 5. Inspection of sheep driven into territory for grazing purposes. Fee.
- Sec. 6. Fees collected to be used for expenses of inspection.
- Sec. 7. Penalty for violating provisions of sections 3 and 4.
- Sec. 8. Inspection of sheep infected with contagious disease. Procedure when such sheep are found. Penalty.
- Sec. 9. Tax levy for expenses of sheep sanitary board.

Sec. 10. Section 168, Compiled Laws of 1897, and section 21, chapter 33, Laws of 1899, regarding the levy of a special tax, Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 160 of the Compiled Laws of New Mexico of 1897, be and the same is hereby amended by striking out the word "three" in the first line thereof and inserting in lieu thereof the word "five" and by inserting the words "and two at large" after the word "districts" in the tenth line.

Sec. 2. The provisions of the act of the Legislative Assembly of the Territory of New Mexico, approved March 10, 1899, which appears as chapter 33 of the printed acts of the legislative assembly at its thirty-third session, are hereby so amended and modified as not to require any inspection of sheep coming into, or going out of, the territory, as to their sanitary condition when such sheep have been inspected by an inspector or an assistant inspector of the bureau of animal industry of the department of agriculture, in accordance with the act of congress entitled "An Act to enable the secretary of agriculture to more effectually suppress and prevent the spread of contagious and infectious diseases of live stock and for other purposes," approved February 3rd, 1903, and in accordance with the rules and regulations established, or which may be established from time to time, by the secretary of agriculture under the authority conferred on him by said act, and, when such inspector or assistant inspector has issued a certificate showing that he has inspected such sheep in accordance with said act and said rules and regulations and has found them free from any infectuous, cantagious or communicable disease; but the said act of the legislative assembly of New Mexico shall remain in full force as to all other sheep coming into, or going out of, the Territory of New Mexico.

Sec. 3. It is hereby made the duty of the sheep inspectors carefully to examine all sheep coming into the Territory of New Mexico from any other country, state or territory, for the purpose of ascertaining and making a record of all brands and marks on said sheep and of the name or names of the person or persons shipping, or bringing said sheep into the territory, and of the persons to whom, within the territory, the said sheep are shipped or consigned, and reports of such facts shall immediately be made by inspectors to the secretary of the sheep sanitary board, and the owner or person in charge of such sheep shall pay to the inspector a fee of three (3) cents per head for the making of such examination, record and report: *Provided, however*, that in the cases of sheep which have not been inspected by an inspector or as-

sistant inspector of the bureau of animal industry, as specified in the second section of this act, the fee of five (5) cents per head prescribed in section 5 of the act of the legislative assembly of New Mexico of March 10, 1899, referred to in said second section of this act, shall be considered as including the fee of three (3) cents per head fixed and prescribed by this section for making the examination, record and report aforesaid.

Sec. 4. It is hereby made the duty of the sheep inspectors carefully to examine all sheep about to be shipped or driven out of the territory for the purpose of ascertaining and making a record of all brands and marks upon said sheep, and no sheep bearing any of the marks by the law of this territory declared to be unlawful, shall be allowed to be shipped or driven out of the territory, except under express authority of the sanitary board. The inspector shall also require each person so shipping or driving sheep out of the territory, to exhibit a bill, or bills, of sale, or authority in writing to ship or drive such sheep, executed as now provided by law for live stock from the recorded owner of all marks and brands upon such sheep unless such person is himself the recorded owner of such marks and brands. The inspector shall make a record, and report to the secretary of the board, of the number of the sheep so shipped or driven out of the territory, of all brands and marks on such sheep and of the facts shown in such bill of sale or authority in writing as aforesaid, and shall give to the person in charge of such sheep a certificate setting forth the said facts, and the said person shall before receiving such certificate, pay to the inspector a fee of five (5) mills for each sheep so inspected. In case of any sheep about to be shipped or driven out of the territory which have not been inspected by an inspector or assistant inspector of the bureau of animal industry and a certificate issued by such inspector or assistant inspector, as specified in the second section of this act, the territorial inspector shall also examine said sheep as to their sanitary condition, and, if fully satisfied that they are free from any contagious or infectious disease, he shall upon payment to him of a fee of one (1) cent for each sheep, which fee shall be in full for all services performed under this section, give to the person in charge of said sheep a certificate or bill of clearance setting out the performance of everything required by this section, which certificate or bill shall authorize the taking of said sheep out of the territory; and it shall not be lawful for any person, firm or corporation to offer for transportation, nor shall any railroad company in this territory accept or receive for transportation on its lines of railroad from this territory to any place beyond its boundaries any such sheep

for the transportation of which a certificate or bill of clearance as herein provided for, is not first obtained and exhibited to the railroad company by the shipper immediately before and at the place of shipment; and any railroad company violating the provisions of this act shall be held liable in the sum of five (5) cents per head for each and every head of sheep received by it for transportation and actually transported from this territory to any place beyond its boundaries without such a certificate or bill of clearance, which sum shall be recovered for the use of the sheep sanitary fund upon the suit of the sheep sanitary board in any court of competent jurisdiction; and, *provided further*, that in event any judgment should be recovered against any railroad company, for damages because of its compliance with any of the terms of this act, such company shall be reimbursed in the amount of such judgment out of the sheep sanitary fund. The said inspector shall make report to the secretary of the board, of every inspection made by him under the provisions of this section, which said report shall show the name of the shipper, the place of shipment, the place of destination, the number of sheep shipped, their marks, brands and sanitary condition, and the date of shipping, together with name or names of any former owner or owners of such sheep, or any portion thereof, and the substance of the bills of sales made by such former owner or owners exhibited by the shipper, and any additional matters which may be required by the board.

Sec. 5. All sheep shipped or driven into the Territory of New Mexico for the purpose of being grazed during the whole or any portion of the year shall pay a fee of five (5) cents per head, to be collected by the sheep inspector at the time of the coming of said sheep into the territory, or as soon thereafter, as it may be discovered that they have so come into the territory, and said fee shall be a lien on said sheep and when collected, shall be paid into the sheep sanitary fund; and unless such fee is immediately paid or its payment secured to the satisfaction of the inspector, the inspector shall summarily take charge of the flock or flocks of sheep, as under attachment, and report the flocks to the board, and the board shall institute proceedings against said sheep as for the foreclosure of a lien, and against their owner, for the recovery of said fee and all costs and expenses incurred in caring for such sheep while in the custody of the inspector.

Sec. 6. All fees collected under sections 3 and 4 of this act shall be used for the purpose of defraying the cost and expenses of inspections therein provided for and for no other purpose.

Sec. 7. Any person violating the provisions of sections 3 and 4 of this act, whether by shipping or driving sheep out of the territory, without first having obtained the certificate therein provided for, or by failing to pay the fees required by said sections, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and, in the discretion of the court also by imprisonment not exceeding six months.

Sec. 8. Whenever any inspector shall find any sheep infected with scab or other contagious disease, he shall notify the owner or person in charge of such sheep that he is subject to penalty, not exceeding the sum of one hundred dollars (\$100.00) which shall be a lien on such sheep, and shall immediately report the facts of the case fully to the board, and the board shall instruct the inspector as to the amount of penalty to demand and collect from such owner, or person, or sheep, and if the same be not paid within ten days after demand is made therefor, the inspector in the name of the board, or the board, may enforce the payment thereof by appropriate proceedings in any court of competent jurisdiction, which shall include the district court of the county where the office of the board may be, and the court may give judgment for any amount not exceeding the amount fixed by the board as aforesaid, and the amount so recovered shall be paid into the sheep sanitary fund: but the imposition and collection of the penalty herein provided for shall not be any bar to any criminal prosecution for violation of any other provision of law, nor shall these provisions be held to interfere with or repeal any other statutory remedies or proceedings looking to the suppression of contagious diseases among sheep. The court before which any such case is tried shall, as necessary to a judgment against defendant, require evidence of the existence of scab or other contagious disease among the sheep, of notice by the inspector to the owner, or person in charge of the sheep, and of the action of the board in fixing the penalty, but the certificate of the secretary of the board shall be sufficient and conclusive evidence of the action of the board, and a certificate from the inspector, stating the fact, shall be *prima facie* evidence of the existence of scab or other contagious disease among the sheep.

Sec. 9. The sheep sanitary board shall, in each year, order the levy of a tax upon the assessed value of all sheep in the territory. Such order shall be made by the board on or before the first day of July in any year, and shall be certified to the territorial auditor by the secretary of the board, and the amount of such levy shall by said auditor be certi-

fied to the board of county commissioners of each county, and such commissioners shall include said levy in their annual levies of taxes. Such special tax shall be collected in the several counties and paid to the territorial treasurer in the manner provided by law for the collection and payment of other territorial taxes. Such fund shall be kept separately by such treasurer and shall be used exclusively for the payment of any expenses properly incurred by the sheep sanitary board, and such fund shall be paid out by the territorial treasurer on the order of said board only. Such special tax shall be assessed, levied and collected at the expense of the several counties; and in case the county commissioners of any county shall fail or neglect to make the levy provided herein, they shall, each, become personally responsible to said fund in an amount equal to twenty-five per cent. of said levy, to be collected from them and their bondsmen for the exclusive benefit of said fund.

Sec 10. Section 168 of the Compiled Laws of 1897, and the amendment thereto contained in section 21 of the act of the legislative assembly of New Mexico, referred to in the second section of this act, are hereby repealed.

Sec. 11. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force from and after its passage.

CHAPTER 56.

AN ACT TO AUTHORIZE AND REQUIRE THE USE OF PENITENTIARY LABOR TO CONSTRUCT A PUBLIC ROAD FROM SANTA FE TO LAS VEGAS. *S. for H. B. No. 121; Approved March 14, 1903.*

CONTENTS.

- Sec. 1. Public wagon road established between City of Santa Fe and City of Las Vegas.
- Sec. 2. Use of penitentiary labor authorized. Appropriation for construction.
- Sec. 3. Engineer to be employed to survey route. Superintendent of penitentiary to have charge of work. *Proviso.*

Whereas, Numerous petitions have been presented to this body signed by a large number of representative citizens and taxpayers, residents of San Miguel and Santa Fe counties suggesting the wisdom of utilizing convict labor in the building of a public highway between the cities of Santa Fe and Las Vegas, and,

Whereas, In the opinion of said large number of citizens and taxpayers such employment of the unfortunate inmates

of the penitentiary would not only serve to provide said inmates with much needed healthful occupation that could in nowise conflict with the just rights of free labor, but would identify New Mexico with the "Good Roads" movement now so popular throughout neighboring states of the west, initiate a settled policy for dealing with the prison labor problem, so long a mooted question in this territory, and stand as an example which may in time be extended to other parts of the territory, and,

Whereas, Such public road or highway would pass through the United States Pecos river reservation, one of the most beautiful mountain park regions in the world, and render accessible to the people of Santa Fe, San Miguel and Mora counties for the purposes of trade and healthful recreation a section of country now isolated and but little known yet rich in historic associations and resourceful in deposits of gold and copper ores, recently proved veins of merchantable coal, and attractive in its picturesque ranch homes, therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico :

Section 1. There is hereby established a public wagon road from the city limits of Santa Fe, in the County of Santa Fe, to the city limits of Las Vegas, County of San Miguel, which said road shall be constructed over the most feasible route through or near the canon of the Santa Fe river from the court house in the City of Santa Fe, County of Santa Fe, Territory of New Mexico, over the mountain range at the most practicable place to the east of said city and from thence on the route which may be most practicable, as well as most direct to the court house in Las Vegas, in the County of San Miguel in the Territory of New Mexico.

Sec. 2. The board of penitentiary commissioners and the superintendent of said penitentiary are hereby authorized and required to construct said road by the use of the labor of the penitentiary convicts and the sum of five thousand dollars (\$5,000.00) is hereby appropriated out of any funds in the territorial treasury not otherwise appropriated, payable on the order of the superintendent of the penitentiary from time to time as necessity requires upon warrants drawn through the office of the auditor, for the purpose of employing the necessary extra guards, and the purchase of tools, implements, blasting material, etc., necessary in the prosecution of such work. The said penitentiary commissioners are hereby empowered to adopt a special rule, applicable solely to the convicts employed on the work herein authorized and required, whereby such convicts so employed may be granted

an additional "good time" allowance conditioned upon their good behavior and cheerful compliance with any and all rules that may be promulgated for the management and control of the convicts so employed.

Said work shall commence within sixty days from the approval of this law and prosecuted as speedily as possible consistent with the due and proper management of said penitentiary and other labor required to be done by the convicts therein.

Sec. 3. The Counties of Santa Fe and San Miguel shall employ and pay a competent civil engineer to survey said route, and he shall act under the direction of the superintendent of the penitentiary, select and locate the same, and the superintendent of the penitentiary, shall in person or through his authorized agent, direct the manner and method of carrying on and prosecution of the construction of said public highway:

Provided, that until the time said road shall be duly surveyed and located it shall not be required that the said penitentiary authorities shall do anything towards the construction of such road.

Sec. 5. This act shall be in full force and effect from and after its passage.

CHAPTER 57.

AN ACT PROHIBITING TERRITORIAL OR COUNTY OFFICERS
FROM BECOMING SURETIES FOR OTHERS. *H. B. No. 124;*
Approved March 14, 1903.

CONTENTS.

Sec. 1. Unlawful for territorial or county officers to become surety.

Sec. 2. Violation. penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter it shall be unlawful for any territorial or county officer who is required by law to give official bonds to sign any bond or become surety for any other person or persons during the term for which he is required to give official bonds for himself.

Sec. 2. Any violation of the provisions of this act shall constitute a misdemeanor in office, and shall subject the offender to summary removal therefrom.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force thirty days after its passage.

CHAPTER 58.

AN ACT WITH REFERENCE TO PUBLIC HIGHWAYS IN THE TERRITORY OF NEW MEXICO, *H. B. No. 147; Approved March 14, 1903.*

CONTENTS.

- Sec. 1. All post roads declared to be public roads.
Sec. 2. Obstructing public roads. Penalty.
Sec. 3. Sides of public roads may be fenced. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Whereas the Congress of the United States has declared all post roads and roads over which mails of the United States are carried to be public roads, it is therefore likewise declared by this act that all such roads as above described are and shall continue to be public roads and open to the people of this territory.

Sec. 2. It shall hereafter be unlawful for any person or persons to in any manner obstruct any public road in this territory, by putting therein or thereon any obstruction whatsoever, and all persons convicted of a violation of this act shall upon conviction before any court of competent jurisdiction be fined in any sum not to exceed fifty dollars (\$50.00) or be imprisoned in the county jail for a period not to exceed thirty days, and pay all the costs of prosecution, or both such fine and imprisonment at the discretion of the court trying the cause.

Sec. 3. Where any public road in this territory passes over the public lands it shall be lawful for the board of county commissioners to permit the sides of such road to be fenced whenever a majority of the legal voters of the precinct through which said public road passes so desire: *Provided, however,* that said fencing shall not be at the expense of the county in which the road is located.

All acts and parts of acts in conflict with this act are hereby repealed and this act shall be in force and take effect from and after its passage.

CHAPTER 59.

AN ACT PROVIDING FOR THE REGISTRATION AND USE OF EMBLEMS OR DEVICES UPON BALLOTS FOR VOTERS. *H. B. No. 44; Approved March 14, 1903.*

CONTENTS.

- Sec. 1. Section 1633, Compiled Laws of 1897, regarding the adoption of emblems by political parties. Amended.
- Sec. 2. Description of ballot. Unlawful for any other political party to use same emblem. Proviso.
- Sec. 3. Penalty for violation of provisions of section 2. Distribution of fines collected. To whom penalties shall apply.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1633 of the Compiled Laws of the Territory of New Mexico, is hereby amended so as to read as follows: "That hereafter it shall be lawful for the territorial central committee of any organized political party in New Mexico, to select and adopt an emblem or device of such party, to be used only by it, upon all ballots at any election held in this territory, at which said party so adopting the same, shall have candidates for office, or shall espouse or oppose any particular measure or question to be voted upon; when adopted by such committee an imprint and description of said emblem or device shall be certified to by the chairman and secretary of such territorial central committee as the official emblem and device adopted by it, and the same with said certificate shall be sent within ten days of such adoption, to the secretary of the territory, who shall file the same in his office with his certificate of the day and time of its filing, and it shall be the duty of the secretary of the territory within ten days from its receipt by him to send a certified copy thereof to the probate clerk of each county in the territory, and the said probate clerk shall thereupon file the same in his office, making a minute thereon, of the date and time the same was received, which said emblem or device shall be open for the inspection of all persons during business hours and such emblem or device shall not be changed within two years from the time of its adoption and shall remain and be known as the emblem or device of the party so adopting it, until the same shall be formally changed by such party, in the same manner as it was originally adopted. The secretary of the territory shall be entitled to a filing fee of one dollar (\$1.00), and to a like amount for each certified copy sent out, to be paid by the person applying to file the same, and the probate clerk of each county shall be entitled to a fee

of one dollar (\$1.00) for filing the same, to be paid by the party applying to file the same."

Sec. 2. It shall be the duty of the persons providing the ballots for the use of the voters of the political party which may have adopted and filed the emblem or device as provided for in section 1, of this act, to cause the same to be printed at the head of the ballot to be used at any election for officers or upon any question to be submitted to the people at any election which may be lawfully called. The name of the party which has adopted the same being printed in large black letters immediately above such emblem or device in either the English or Spanish language, and immediately under such emblem or device shall be printed in black letters the names of the candidates for the several offices to be voted for at such election, as they have been nominated by such party, and the question to be voted upon either in favor of or against the same as may have been determined by the local members of the party which shall have selected such emblem or device either in convention or otherwise to the satisfaction of such party, and it shall be unlawful for any other political party, person or persons to adopt or use any such emblem or device upon ballots or to cause or permit the same to be placed or printed on any ticket or ballot to be voted at any election, or to issue, distribute, or circulate, or cause to be issued, printed, or circulated any ticket or ballot having thereon such emblem or device with any name printed thereon, other than the name or names of the candidate or candidates and the question to be voted on or determined except the name, or names of the candidate or candidates, nominated or selected by the political party who shall have adopted such emblem or device in the manner hereinbefore provided. *Provided*, that nothing in this section shall be construed to prevent or prohibit any voter from erasing or changing by paster, or in any other manner, any name on any such ticket or ballot, voted by such person, nor to prevent any executive committee or other proper authority of such party from having printed upon such ticket or ballot, names of candidates selected by them to fill any vacancy in said ticket caused by the death, withdrawal, removal or other disability of any candidate of such party.

Sec. 3. Any person or persons violating any of the provisions of section 2 of this act, shall be guilty of a felony and shall be tried upon indictment by the district court, and upon conviction shall be punished by imprisonment in the territorial penitentiary, for not less than one year, nor more than five years, and in addition shall forfeit any office which he may hold under the territorial, county, city or town govern-

ment, and to pay a fine of not more than five hundred dollars (\$500.00), one-half of which shall go to the person giving the information against the accused which leads to his conviction, and the other one-half shall go into the court fund of the county in which such person is tried. These penalties shall not apply to or effect any person voting such ballots, but only those guilty of preparing, printing, distributing and circulating the same, as provided in section 2 of this act, and all ballots must be counted and canvassed for the persons or questions voted upon therein. It being the true intent and meaning of this act, that the political party adopting an emblem or device for such party by its territorial committee shall have the exclusive right to use and enjoy the same in every election throughout the territory in which said party shall participate as such, and vote for officers or upon questions to be determined by ballot.

Sec. 4. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force thirty days after its approval by the governor.

CHAPTER 60.

AN ACT EMPOWERING CITIES TO PROVIDE FOR THE COLLECTION OF GARBAGE. *C. B. No. 83; Approved March 14, 1903.*

CONTENTS.

- Sec. 1. City councils may pass ordinances regulating collection of garbage.
- Sec. 2. Garbage collector. Mayor to appoint. Duties. Salary.
- Sec. 3. Rules and regulations. City council to enforce.
- Sec. 4. Fees to be paid by householders for collection of garbage.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever in the opinion of the city council of any city in the Territory of New Mexico the enforcing of a general system of garbage collection is necessary for the sanitary welfare of said city, said city council shall have power by ordinance to require every householder of said city to provide and maintain suitable receptacles, and to deposit therein all garbage and waste matter of every sort, and by ordinance to provide the kind, size and material of said receptacles.

Sec. 2. The mayor of said city shall appoint some suitable person as garbage collector of said city and the city council of said city shall prescribe his duties and salary.

Sec. 3. Said city council shall make and enforce all necessary rules and regulations for requiring the depositing of

such waste or refuse matter in such receptacles and for the maintenance thereof, and from and after the passage of an ordinance prescribing such rules and regulations it shall be unlawful for any person to throw, leave or deposit any such waste or refuse matter in any place other than in such receptacles.

Sec. 4. Said garbage collector shall have authority to receive and collect from every householder of such city a sum to be fixed by such city council not to exceed ten (10) cents per week, which when so collected shall be paid by him into the treasury of said city to the credit of a special fund to be called the garbage fund, and such garbage collector shall receive his salary from such fund and no other.

Sec. 5. This act shall be in full force and effect from and after its passage.

CHAPTER 61.

AN ACT ENTITLED AN ACT PROVIDING FOR ADDITIONAL MEMBERS OF THE BOARD OF EQUALIZATION. *C. B. No. 91; Approved March 14, 1903:*

CONTENTS.

- Sec. 1. Board of equalization. Additional members. Appointment.
Sec. 2. Appropriation for expenses and board of equalization.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter the board of equalization shall be composed of seven members, and in addition to the members now authorized by law the governor shall appoint, with the advice and consent of the council, two persons, who shall be tax payers of the territory, and serve as members at large of said board of equalization.

Sec. 2. That there is hereby appropriated the sum of one thousand dollars (\$1,000.00) for the expenses of the board of equalization each year in lieu of the annual appropriation of seven hundred and fifty dollars (\$750.00) heretofore made.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed; and this act shall take effect and be in force from and after its passage.

CHAPTER 62.

AN ACT TO AMEND SECTION 2921 OF THE COMPILED LAWS OF 1897, RELATING TO LIMITATIONS OF ACTIONS. *C. B. No. 81; Approved March 14, 1903.*

CONTENTS.

Sec. 1. Section 2921. Compiled Laws of 1897, regarding limitation of action as to non-residents. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 2921 of the Compiled Laws of 1897 be and the same is hereby amended to read as follows:

"Sec. 2921. If, at any time after the incurring of an indebtedness or liability or the accrual of a cause of action against him or the entry of judgment against him in this territory, a debtor shall have been or shall be absent from or out of the territory or concealed within the territory, the time during which he may have been or may be out of or absent from the territory or may have concealed or may conceal himself within the territory shall not be included in computing any of the periods of limitation above provided."

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 63.

AN ACT TO PROHIBIT THE DESECRATION OF THE AMERICAN FLAG. *C. B. No. 41; Approved March 14, 1903.*

CONTENTS.

Sec. 1. Flag. Offering insult to or use of for advertising purposes, prohibited. Penalty.

Sec. 2. Use of imprint of flag for advertising or commercial purposes, prohibited. Provision.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The use of the American flag in this territory is prohibited for any other than the purposes for which it was designed by the congress of the United States, and as an emblem of our common country, to be used and displayed only in a seemly and decorous manner in public or private places. And any person who shall by word or act offer any insult to the stars or stripes, or who shall use the same for

advertising purposes by painting, printing, stamping or otherwise placing thereon or affixing thereto any name or object not connected with the patriotic history of the nation or the territory shall be guilty of a misdemeanor and upon conviction by any justice of the peace or district court shall be fined any sum not exceeding one hundred dollars (\$100.00) and by imprisonment in the county jail not exceeding one hundred days, or by both such fine and imprisonment.

Sec. 2. The use of any cut, engraving, or print of such flag as an advertisement of any vocation or business or upon any particular article to be sold is also prohibited under the same penalty as provided in section 1 of this act: *Provided*, that this act shall not be construed to prevent the use of an imprint of the flag as an emblem or device upon ballots to be voted at any election.

Sec. 3. This act shall take effect and be in force thirty days from and after its approval.

CHAPTER 64.

AN ACT TO AMEND THE ELECTION LAW OF THE TERRITORY OF NEW MEXICO. *C. B. No. 64; Approvea March 14, 1903.*

CONTENTS.

Sec. 1. Section 1701. Compiled Laws of 1897, regarding registration for voting. Amended.

Sec. 2. Section 1706, Compiled Laws of 1897, regarding registered persons only being entitled to vote. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1701 of the Compiled Laws of 1897, is hereby amended, by adding thereto the following words: "Unless he shall tender to the judges of election an affidavit, signed and sworn to by himself, and by two qualified voters of the precinct in which he offers to vote, showing him to be a qualified voter of such precinct at such election; but his vote may be challenged and he may be examined by such judges touching his qualifications as a voter, notwithstanding such affidavit, and in the event that such judges should determine that he is not a qualified voter at such election they shall reject his vote, and enter his name, and the names of the persons he offers to vote for, in the manner provided in section 1668 of the Compiled Laws of 1897, for entering rejected votes."

Sec. 2. That section 1706 of the Compiled Laws of 1897, is hereby amended by adding thereto the following words:

"Provided, that it shall be lawful for any qualified voter, whose name has been omitted from the registration list, to vote upon presenting to the election judges his affidavit supported by the affidavit of two voters, as provided in section 1701 of the Compiled Laws of 1897, as amended by this act."

Sec. 3. This act shall be in full force and effect from and after its passage.

CHAPTER 65.

AN ACT TO REGULATE THE ADMISSION OF FOREIGN CORPORATIONS AND PROVIDING A PENALTY FOR CORPORATIONS FAILING TO COMPLY WITH THE LAW. *A. C. B. No. 52; Approved March 14, 1903.*

CONTENTS.

- Sec. 1. Section 445, Compiled Laws of 1897, regarding the admission of foreign corporations and limitation of powers. Amended.
Sec. 2. Section 446, Compiled Laws of 1897, regarding liability of foreign corporations on contracts and penalty. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 445 of the Compiled Laws of 1897 be amended to read as follows: "Every company or corporation incorporated under the laws of any foreign state or kingdom, or of any state or territory of the United States, beyond the limits of this territory and now or hereafter doing business in this territory, shall file in the office of the secretary of this territory a copy of its charter of incorporation, or of its articles of incorporation, together with the law or laws under which it is incorporated, each duly certified and authenticated by the proper authority of such foreign state, kingdom or territory. Such company shall, also, before it is authorized or permitted to do business in this territory, make and file with the secretary of the territory a certificate signed by the president and secretary of such company, duly acknowledged, designating the principal place where the business of such company shall be carried on in this territory, and an authorized agent or agents residing at such principal place of business upon whom process may be served. A copy of such charter or articles of incorporation and certificate of place of business and agent, duly certified by the secretary of this territory, shall be filed in the office of the recorder of deeds in the county in which the principal place of business of such corporation shall be. Such corporations shall have the same powers and shall be subject to all the liabilities and duties as corporations of a like character organized under the

general laws of this territory. But they shall have no other or greater powers, and no foreign or domestic corporation established or maintained in any way for pecuniary and of its stockholders or members, shall purchase or hold real estate in this territory except as provided for in this act and the laws of the territory now existing, and no corporation doing business in this territory, incorporated under the laws of any other state, shall be permitted to mortgage, pledge or otherwise encumber its real or personal property, situated in this territory, to the injury or exclusion of any citizen, citizens or corporations of this territory who are creditors of such foreign corporation, and no mortgage by any foreign corporation except railroad and telegraph companies, given to secure any debt created in any other state, shall take effect as against any citizen or corporation of this territory until all its liabilities due to any person, or corporation in this territory at the time of recording such mortgage have been paid and extinguished."

Sec. 2. That section 446 of the Compiled Laws of 1897, be and the same in hereby amended by adding thereto the following words: "And in addition such company or corporation shall be liable to forfeit and pay to the Territory of New Mexico, the sum of fifty dollars (\$50.00) per day for each and every day in which it may carry on business or assume and hold itself out to carry on business in such territory without fully complying with all provisions hereinbefore provided, such sum to be collected by the solicitor general; and until payment is made such company shall not be allowed to carry on business. Such money when collected, shall be turned over to the treasurer of the territory, for the benefit of the general school fund."

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed; and this act shall take effect and be in force from and after its passage.

CHAPTER 66.

AN ACT RELATING TO COUNTY JAILS. *C. B. No 129; Approved March 14, 1903.*

CONTENTS.

Sec. 1 County commissioners may make special tax levy to provide additional jail quarters.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Whenever any county jail within the Territory

of New Mexico shall contain more than thirty prisoners and in the judgment of the board of county commissioners additional quarters are required for the safekeeping of such prisoners, then such county commissioners shall be authorized to make a special levy upon the taxable property of such county, not exceeding three (3) mills on the dollar, the proceeds of which shall be used for the purpose of constructing such additional quarters for jail purposes so required.

Sec. 2. This act shall take effect from and after its passage.

CHAPTER 67.

AN ACT TO AMEND SECTION 11 OF CHAPTER 90, LAWS OF 1901, RELATING TO TERRITORIAL BONDED INDEBTEDNESS, AND THE REDEMPTION THEREOF. *A. C. B. No. 23; Approved March 14, 1903.*

CONTENTS.

Sec. 1. Section 11, chapter 90, Laws of 1901, regarding redeeming of outstanding indebtedness. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 11 of chapter 90, Session Laws of 1901, approved March 21, 1901, be and the same is hereby amended so as to read as follows:

"Section 11. That at any time within three months prior to the time when any outstanding bond, bonds, or any portion thereof of this territory may become redeemable at the option of the territory by the terms of such bonds, it shall be lawful for the territory to issue refunding bonds to an amount equal to the bonds so becoming optionally due in the form and manner prescribed by chapter 58, sections 1 to 12, of the Session Laws of 1899, bearing four per cent. interest payable semi-annually and the treasurer with approval of the governor of the territory shall have authority to sell the same for cash at not less than par to the highest bidder after advertisement for a period of two months in some recognized financial publication in New York City or Chicago, and with the proceeds take up and pay off any outstanding bonds becoming optionally due, or any portion thereof that may bear more than four per cent. interest, which bonds so taken up shall be destroyed and a certificate of such destruction be made and recorded in the manner provided in section 5 of chapter 58, Session Laws of 1899. Such refunding bonds hereby authorized to be issued shall not in any event be con-

sidered as creating any new or additional indebtedness. And when any outstanding bond or bonds or any portion thereof of this territory are about to become absolutely due and payable, and there shall not be funds available in the treasury to redeem and take up the same at their maturity, then it shall in like manner be lawful for the territory to issue its bonds in an equal amount, and for the treasurer with the approval of the governor of the territory, to sell and dispose of such refunding bonds to the highest bidder after advertisement for a period of two months in some recognized financial publication in New York City or Chicago, for cash at not less than par at any time within one year prior to the time of such sale to take up any outstanding bonds, or any portion thereof at their maturity in the same manner and under the same regulations as hereinbefore provided for taking up bonds at the optional maturity; or the treasurer may purchase said outstanding bonds about to become due at a rate that will net the territory not less than three per cent. per annum, as he may deem most advantageous to the interests of the territory."

Sec. 2. As there is an urgent necessity for this act, the same shall take effect and be in force from and after its passage.

CHAPTER 68.

AN ACT AMENDING SECTION 1 OF CHAPTER 67 OF THE LAWS OF 1901, ENTITLED "AN ACT REGULATING THE ASSESSMENT AND TAXATION OF BUILDING AND SAVINGS AND LOAN ASSOCIATIONS, APPROVED MARCH 20, 1901. C. B. No. 110; *Approved March 14, 1903.*

CONTENTS.

- Sec. 1. Section 1, chapter 67, Laws of 1901, regarding manner of listing and assessing building and savings and loan associations, Amended.
Sec. 2. Assessments or taxes levied since passage of chapter 67, Laws of 1901, declared abated.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1 of chapter 67 of the laws of the 34th Legislative Assembly of the Territory of New Mexico, entitled "An act regulating the assessment and taxation of building and savings and loan associations," approved March 20, 1901, be and the same is hereby amended by adding after the words "and neither the association or the shareholders

therein shall be liable to other taxation upon said shares of stock," and preceding the proviso of said section, the following: "Or the mortgages owned by said association upon real estate listed for taxation by the owners thereof."

Sec. 2. That any assessments or taxes levied against any association described in said chapter 67 of the Laws of 1901, made or assessed since the passage of said act, are hereby abated and declared uncollectable, notwithstanding any suit or proceeding brought to recover the same.

Sec. 3. This act shall be in force and effect from and after its passage.

CHAPTER 69.

AN ACT ENTITLED AN ACT TO CREATE THE COUNTY OF LEONARD WOOD. *H. S. for H. B. No. 162; Approved March 16, 1903.*

CONTENTS.

- Sec. 1. Sections 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611 and 612, Compiled Laws of 1897, regarding organization of Guadalupe county, Repealed.
- Sec. 2. Leonard Wood county created. Boundaries.
- Sec. 3. County seat established. Erection of buildings for county offices. Duties of county commissioners.
- Sec. 4. Precincts and school districts.
- Sec. 5. County officers. Appointment.
- Sec. 6. Indebtedness of Guadalupe county to be assumed by Leonard Wood county. All assets of Guadalupe county to belong to County of Leonard Wood.
- Sec. 7. Bond issue for benefit of Valencia county. Form. Rate of interest.
- Sec. 8. Bond issue for court house and jail purposes, and for current expenses.
- Sec. 9. Adjustment of unpaid taxes and licenses.
- Sec. 10. Collector of Leonard Wood county to collect all unpaid taxes and licenses within former limits of Valencia county.
- Sec. 11. Judicial district. Time of holding court. District attorney. Salary.
- Sec. 12. Legislative districts.
- Sec. 13. Peace officers.
- Sec. 14. Quay, Roosevelt and Leonard Wood counties to be counties of the fourth class.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That chapter 88 of the Session Laws of 1891, entitled "An Act creating the County of Guadalupe out of a portion of the County of San Miguel" and all acts and parts of acts supplemental and amendatory thereto, compiled as sections 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611 and 612 of the Compiled Laws of 1897, be and the same are hereby repealed, and that portion of the Territory of New Mexico, heretofore known as the County of Guadalupe,

except those parts of the County of Guadalupe, out of which there was created and established the Counties of Quay and Roosevelt, is hereby abolished as a county of the Territory of New Mexico.

Sec. 2 That out of that portion of the Territory of New Mexico, which was formerly embraced within the exterior limits of Guadalupe county, except those portions of said Guadalupe county, out of which the counties of Quay and Roosevelt were established and created, and out of a portion of the county of Valencia which lies immediately west of said Guadalupe county, there is hereby created and established the County of Leonard Wood, which said county of Leonard Wood is described as follows, as indicated by the United States survey, to-wit: Commencing at the southeast corner of township two, north of range twenty-six east; thence north along th range line between ranges twenty-six and twenty-seven east, to the northeast corner of township eleven, north of range twenty-six east; thence west along the north line of township eleven, north of range twenty-six east, projected to the northwest corner of township eleven, north of range sixteen east; thence south along the range line between ranges fifteen and sixteen east to the southwest corner of township two, north of range sixteen east, thence east along the south line of township two, north of range sixteen east, projected, to the southeast corner of township two, north of range twenty-six east, to the point or place of beginning.

Sec. 3. That the county seat of the county of Leonard Wood shall be and hereby is established at the town of Santa Rosa in said county; and that the board of county commissioners of said county (hereinafter provided for) shall elect and designate a proper and convenient place in said town, to be donated and granted free of cost to the county of Leonard Wood, for the erection of the permanent buildings of said County of Leonard Wood; and the county commissioners of the County of Leonard Wood, immediately after their qualification, shall provide the necessary quarters for the county officers and the holding of district court, at the county seat of Leonard Wood county, and for that purpose may rent or lease a suitable building or buildings at said county seat, and failure on the part of the county commissioners to perform their duty, as aforesaid, shall be cause for their removal from office by the governor of the territory.

Sec. 4. The county commissioners provided for under this act, are authorized and empowered to divide said county of Leonard Wood into precincts and school districts and to appoint in each precinct and school district the officers provided by law.

Sec. 5. That on or before the first Monday of May, A. D. 1903, the governor of the Territory of New Mexico shall appoint all of the county officers of the said county of Leonard Wood, and the said officers by him so appointed shall immediately qualify and enter upon the discharge of their duties and shall serve until the election and qualification of their successors, who shall be elected at the next general election for such officers, and the governor shall appoint officers to fill any vacancies that may arise by reason of the failure of any of said officers to qualify within thirty days after their appointment as aforesaid.

Sec. 6. All obligations of indebtedness of the County of Guadalupe are hereby and shall be assumed by the County of Leonard Wood, and all public improvements and county property, including all moneys, bonds, credits, evidences of indebtedness, records, etc., belonging to said county of Guadalupe, shall be and by this act are made the property of the County of Leonard Wood, and the officers of the county of Guadalupe shall turn over and deliver to the county of Leonard Wood, all such public improvements, county property, including moneys, bonds, credits, evidences of indebtedness, records, etc., on or before the tenth day of May, A. D. 1903; and the officers of the County of Guadalupe shall, on or before the tenth day of May, A. D. 1903, transfer the records of their offices to the corresponding officers of Leonard Wood county, who have succeeded to the offices of Leonard Wood county, formerly held by the officers of Guadalupe county, and failure on the part of any of the officers of the county of Guadalupe to perform their duties, as herein provided shall render them liable on their official bonds. All obligations due the county of Guadalupe, at this time, or that may become hereafter due, shall be payable to and belong to the County of Leonard Wood, and wherever, in the acts creating the counties of Quay and Roosevelt, it is directed that the counties of Quay and Roosevelt pay over and deliver to the county of Guadalupe any moneys or bonds in settlement of their proportion of the indebtedness of Guadalupe county, as may be hereafter determined, the Counties of Quay and Roosevelt shall pay said moneys and deliver said bonds to the County of Leonard Wood.

Sec. 7. It shall be the duty of the board of county commissioners of the County of Leonard Wood, on or before the first day of July, A. D. 1903, to issue coupon bonds in the sum of three thousand dollars (\$3,000.00), of said Leonard Wood county, which shall bear interest at the rate of five per cent. per annum, payable semi-annually, which said bonds shall be payable absolutely twenty years from date and

at the option of said county, five years from date, and be in amounts of one hundred dollars (\$100.00) each, or multiples thereof, which shall be signed by said board of county commissioners, countersigned by the clerk of said board, attested by its seal and endorsed by the treasurer of the county, and shall be in form approved by the district attorney of the district attorney district of which San Miguel county is a part, and when such bonds are so issued, the same shall be delivered to the board of county commissioners of Valencia county, in final settlement and in full payment of any and all claims said County of Valencia may have become entitled to by reason of the creation of said Leonard Wood county.

Sec. 8. The County of Leonard Wood may issue bonds, to be known as "Leonard Wood County Court House and Building Bonds," for court house purposes to any amount not exceeding fifteen thousand dollars (\$15,000.00), and for jail purposes to an amount not exceeding five thousand dollars (\$5,000.00), and for current expenses not exceeding five thousand dollars (\$5,000.00).

Sec. 9. Leonard Wood county shall be entitled to have and receive from the counties of Guadalupe and Valencia all unpaid taxes for the year A. D. 1902, and in the case of Guadalupe county, to all the unpaid taxes whatsoever, not heretofore set aside and turned over to the Counties of Quay and Roosevelt, by the acts creating the counties of Quay and Roosevelt, which taxes have been levied or assessed upon or against property within the former limits of Guadalupe and Valencia counties and which by this act are set off from said Counties of Guadalupe and Valencia and has become Leonard Wood county, and the treasurer and collector of Leonard Wood county shall collect and receipt for the same as the treasurers and collectors of Guadalupe and Valencia counties might have done had this property remained within the limits of the counties of Guadalupe and Valencia, and Leonard Wood county shall be entitled to and shall receive from Guadalupe and Valencia counties such proportion of the moneys received from licenses, issued by Guadalupe and Valencia counties, in force in Leonard Wood county during any part of the year A. D. 1903, as such unexpired term of each license shall bear to the whole term for which such license was issued; and all taxes already paid into the treasury of Valencia county upon property located within the limits of Leonard Wood county shall be credited upon the proportion of the debt of Valencia county and to be paid by Leonard Wood county.

Sec. 10. On or before the first day of June, A. D. 1903, the collector of the county of Valencia shall deliver to the county commissioners of Leonard Wood county a list of all

delinquent taxes and unpaid licenses and also a list of all taxes which will become due on July first, A. D. 1903, upon property within the limits and upon personal property belonging to persons resident within the limits of Leonard Wood county, who were formerly within the limits of Valencia county, and the county collector of Leonard Wood county shall proceed and collect said taxes and licenses as required by law and they shall become and be the funds of Leonard Wood county.

Sec. 11. Said Leonard Wood county is hereby attached to the fourth judicial district of the Territory of New Mexico for judicial purposes, and district court for the trial of causes arising under the laws of the Territory of New Mexico shall be held at the county seat of said county by the judge of said court, beginning on the second Monday of April and the second Monday of October of each year, there being a sufficient amount in the count fund of said county therefor, and special terms of said court may be held when convened in accordance with law. Causes, civil and criminal, now pending in the Counties of Guadalupe and Valencia, which arose within the limits of Leonard Wood county, shall proceed to indictment and trial in the County of Leonard Wood. The district attorney for the district attorney district of which the county of San Miguel is a part, shall be the district attorney for Leonard Wood county, and shall be entitled to a salary from said Leonard Wood county of two hundred and fifty dollars (\$250.00) per annum, payable quarterly.

Sec. 12. The County of Leonard Wood, for legislative purposes shall be attached to the———council and the———house districts, until otherwise provided by law.

Sec. 13. Until the appointment and qualification of the peace officers of Leonard Wood county, the peace officers of the counties of Guadalupe and Valencia shall continue to exercise authority as before this act, and shall have jurisdiction as heretofore.

Sec. 14. That the Counties of Quav, Roosevelt and Leonard Wood, are hereby declared to be counties of the fourth class.

Sec. 15. This act shall be in force from and after its passage.

CHAPTER 70.

AN ACT TO CREATE THE COUNTY OF TORRANCE AND TO PROVIDE FOR THE GOVERNMENT THEREOF. *C. B. No. 122; Approved March 16, 1903.*

CONTENTS.

- Sec. 1. Torrance county. Creation. Boundaries.
- Sec. 2. County seat. Location.
- Sec. 3. Returning board. Appointment. Duties and powers.
- Sec. 4. County of the fourth class. Salaries of county officers.
- Sec. 5. Precinct and school districts, and officials.
- Sec. 6. Legislative district. Representation.
- Sec. 7. Judicial district.
- Sec. 8. District attorney.
- Sec. 9. Bond issue to pay indebtedness due County of Valencia. Form. Maturity. Rate of interest.
- Sec. 10. Indebtedness due other counties to be adjusted.
- Sec. 11. Bond issue for court house and jail purposes, and current expenses.
- Sec. 12. This act in force January first, 1905.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That a county, which shall be known as Torrance six east of the New Mexico Principal Base Line, and Territory of New Mexico, included within the following boundaries, as indicated by United States surveys, to-wit:

Commencing at the southwest corner of township one north, range six east of the New Mexico Base Line, and running thence north on the range line, between ranges five and six east, to the northwest corner of township seven north, range six east; thence east on the township line between townships seven and eight north to the northeast corner of township eight north range seven east; thence north on the range line between ranges seven and eight east to the northwest corner of township eight north, range eight east, thence west along the Second Standard Parallel North to the southwest corner of township nine north, range seven east, thence along range line between ranges six and seven east to the northwest corner of township nine north, range seven east; thence east on the township line between townships nine and ten north, to the northeast corner of township nine north, range eleven east, thence south on the range line between ranges eleven and twelve east to the corner of sections thirteen, eighteen, nineteen and twenty-four, thence east, through the middle of township nine north ranges twelve, thirteen, fourteen, and fifteen east, to corner of sections thirteen, eighteen, nineteen and twenty-four on the range line between ranges fifteen and sixteen, township nine, north

thence south on the range line between ranges fifteen and sixteen east to the corner of township one north, between ranges fifteen and sixteen east on the New Mexico Principal Base Line, and thence west along said New Mexico Principal Base Line to the southwest corner of township one north of range six east, the place of beginning.

Sec. 2. The County seat of the County of Torrance shall be and the same is hereby located at Progreso, in said county.

Sec. 3. On the first day of August, 1904, the governor of the Territory of New Mexico shall appoint three qualified persons, legal voters within the county of Torrance as a returning board, whose duties shall be the same as county commissioners in regard to the appointment of boards of registration and judges of election in the said County of Torrance and whose duty it shall be to call and give notice of the holding of a general election, at the time and in the manner now prescribed by law. The members of the said returning board before entering upon the discharge of their duties shall take the oath of office before some officer qualified to administer oaths, as provided for county commissioners, and the said returning board when so appointed and qualified as herein provided, shall have the same power and authority as to receiving, canvassing and certifying the returns of the general election to be held on the first Tuesday after the first Monday of November, 1904, for county officers of said county as is now conferred by law upon county commissioners of the several counties of this territory, and the said returning board shall serve in such capacity without compensation for their service.

Sec. 4. That said County of Torrance so established shall, with reference to the salaries of officers be a county of the fourth class as defined in and provided for by the act entitled "An Act to provide for the compensation of county officers, and for other purposes, approved March 18th, 1897," and the salaries and emoluments of the officers of said county shall be such as are in said act provided for officers of counties of the fourth class.

Sec. 5. The precincts and school districts now existing in the territory included in such county, and the officials thereof shall remain the same as they now are until changed by law.

Sec. 6. For legislative purposes, the said county of Torrance is hereby attached to and made a part of the sixth council and the tenth legislative districts, and jointly with the County of Valencia shall elect one councilman and two representatives to the territorial legislature.

Sec. 7. The said County of Torrance is hereby attached

to the second judicial district for judicial purposes, and the district court for the trial of causes arising under the laws of the territory shall be held therein by the judge of said court at such times as may be prescribed by law.

Sec. 8. That the district attorney for the County of Bernalillo shall also be the district attorney for the county of Torrance.

Sec. 9. That the said County of Torrance shall assume and pay to the County of Valencia from which the said County of Torrance has been partly segregated and organized, one-third (1-3) of the existing and outstanding legal and valid indebtedness of the said county of Valencia, less the value of moneys on hand in said County of Valencia to pay such indebtedness, and for this purpose the said County of Torrance may issue bonds in whatever sum may be necessary said bonds to run for the period and become due and payable in twenty years from the date of their issuance; but payable at the option of the said county at any time after the expiration of ten years, said bonds to be in the usual form and in the sum of one hundred dollars (\$100.00) or any multiple thereof, and the said bonds shall bear interest at the rate of not to exceed six per cent. per annum until paid, the interest payable semi-annually. And the county commissioners of said county of Torrance are required annually when other taxes are levied and collected, to levy and cause to be collected upon all taxable property of said county, a sum sufficient to pay said interest, and such proportion of the principal as shall be necessary to pay said bonds at maturity, or sooner if it be elected to do so, as herein provided, and for the purpose of paying its share of the foregoing pro rata indebtedness. The bonds authorized in this act shall specify for what purpose or account they are issued.

Sec. 10. The indebtedness of the other counties from which the said county of Torrance has been segregated and organized, shall remain and be adjusted and settled as to those counties as now provided by law.

Sec. 11. The County of Torrance after its organization, may issue bonds for court house purposes to an amount not exceeding twenty-five thousand dollars (\$25,000.00), and for jail purposes to an amount not exceeding five thousand (\$5,000.00) and for the current expenses until taxes are levied and collected to an amount not exceeding five thousand dollars (\$5,000.00).

Sec. 12. This act shall be in full force and effect from and after the first day of January, A. D. 1905, except as to the provisions thereof, which require action at an earlier date, and as to such provisions they shall take effect on such earlier

dates, and all laws and parts of laws in conflict herewith are hereby repealed.

CHAPTER 71.

AN ACT FIXING THE TIMES OF HOLDING THE DISTRICT COURTS IN THE COUNTIES OF TAOS, LINCOLN, M'KINLEY AND THE FIRST JUDICIAL DISTRICT. *H. B. No. 164; Approved March 16, 1903.*

CONTENTS.

- Sec. 1. Term of court in first judicial district. San Juan, Rio Arriba, and Taos counties.
- Sec. 2. Term of court in McKinley county.
- Sec. 3. Term of court in Lincoln county.
- Sec. 4. All writs issued by district courts returnable at the times and places designated in sections 1, 2 and 3.
- Sec. 5. Terms of district courts in other counties to remain unchanged.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. In the first judicial district and in the County of Santa Fe, at the county seat of said county, commencing on the first Monday of March and September of each year; in San Juan county at the county seat of said county commencing on the second Monday of April and October of each year; in the County of Rio Arriba, at the county seat of said county, commencing on the fourth Monday of April and October of each year; in the County of Taos at the county seat of said county, commencing on the third Monday of May and November of each year.

Sec. 2 That the terms of the district court in and for the County of McKinley, shall be begun and held at the county seat of the said county on the first Monday of June, and the third Monday in November of each year.

Sec. 3. That the terms of the district court in and for the County of Lincoln, shall be begun and held at the county seat of the said county on the first Monday of March and the first Monday of September of each year.

Sec. 4. Every writ, summons, bond, recognizance, subpoena, venire, or other process whatever which has been issued or taken out from any district court for any district or county, shall be returnable at the times and places designated in sections 1, 2 and 3 of this act, and shall have the same force and effect as if the same had been made returnable at the time and places mentioned in said section 1, 2 and 3 of this act.

Sec. 5. All other terms of the district court in the several

counties of this territory, shall be begun and held as heretofore provided by law.

Sec. 6. All acts and parts of acts in conflict herewith are hereby repealed; and this act shall take effect and be in force from and after its passage.

CHAPTER 72.

AN ACT TO AMEND SECTION 1534, COMPILED LAWS OF 1897. *H. B. No. 106; Approved March 17 1903.*

CONTENTS.

Sec. 1. Section 1534, Compiled Laws of 1897, regarding powers and duties of school directors in levying tax. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1534, Compiled Laws of 1897, is hereby amended by adding thereto the following proviso: "*Provided*, that any school district, upon a majority vote of the legal taxpayers thereof, at a regularly called election for the purpose, may have power to levy for school purposes not to exceed seven and one-half (7.5) mills, including the five (5) mill levy hereinbefore authorized for such purpose.

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed, and this law shall take effect thirty days after its passage and approval by the governor.

CHAPTER 73.

AN ACT PROVIDING FOR THE APPRISEMENT OF DAMAGE COMMITTED BY ANIMALS OF KNOWN OWNERS UPON CULTIVATED FIELDS AND FENCED LAND, REGULATING THE SAME, AND FOR OTHER PURPOSES. *H. B. No. 128; Approved March 17, 1903.*

CONTENTS

Sec. 1. Owners of animals damaging fields liable. Appraisement of damage.

Sec. 2. Appraisers. Duties and compensation.

Sec. 3. Procedure in case of execution upon damaging animals when owner neglects or refuses to appear. Proviso.

Sec. 4. Fees of justice of the peace.

Sec. 5. Animals to which provisions of this act shall apply.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. All damage or injury done to any cultivated

fields sown with grain, corn, vineyards, orchards, alfalfa or other sown domestic grasses, and to all lands fenced and enclosed as now required by law in this territory, shall be paid for by the owner of animals committing said damage or injury after such damage shall have been appraised or valued by the parties interested or in case of dispute by two appraisers appointed for the purpose, one by each of said parties and in case of dispute between said appraisers they shall appoint a third appraiser who shall decide said matter. If the owner of the animals is not satisfied with the decision of said appraisers, he shall notify the justice of the peace of his precinct if such justice of the peace is not an interested party or in any way biased or prejudiced, and if such justice of the peace is an interested party or is biased or prejudiced against the owner of said animals, or if there is no justice of the peace in said precinct, then he shall notify the justice of the peace of the nearest precinct. It shall be the duty of the justice of the peace so notified to immediately appoint three disinterested persons residents of the precinct where the damage is committed, as appraisers to appraise and value such damage. The said appraisers so appointed shall first be sworn by said justice to faithfully examine the fields where the damage was done and to appraise such damage justly and equitably. If the owner of the damaging animals after having been duly notified by the party whose fields have been damaged, neglects or refuses to act according to the provisions hereof, within reasonable time, or if at any time he fails to proceed accordingly and satisfy such damage, then such damaged person shall bring the matter before the justice of the peace as herein required of the owner, who shall act as though notified by the owner of the damaging animals as herein provided.

Sec. 2. The appraisers appointed by the justice as above provided, shall, if necessary, examine witnesses under oath, one of them to administer the oath to the witness so to be examined before such testimony is taken. They shall also carefully and faithfully examine the fields damaged. They shall make a written report, signed by at least two of said appraisers, to said justice of the peace, showing the amount of damage done as found by them together with their costs of one dollar (\$1.00) per day each for the time actually employed, which time in no case shall exceed two days. Such report shall be made within two days after their finding is made and the justice shall immediately enter upon his records such report and findings with the costs, and at once notify the owner or owners or any agents thereof of such proceedings and findings by posting notices thereof in at least three conspicuous

places in his precinct and in the precinct where such owners or their agents reside for at least five days. He shall also serve a copy of such notice upon the owner or owners of such damaging animals or his or their agents.

Sec. 3. If the owner or agent neglect or refuse to appear and pay the amount of such findings and costs, the justice of the peace, shall within three days after the expiration of such five days, proceed to issue his writ of execution to the constable of his precinct and in case there is no constable or if for any reason said constable is unable to serve as such, said justice shall appoint a disinterested person to act as constable for such purpose. Said writ shall command such constable to forthwith take up and keep a sufficient number of the damaging animals which said sufficient number shall first be determined by the justice and of the damaging animals those to be thus taken up shall be numbered and described in such writ, to answer for the damage according to the findings of the appraisers and for all accrued costs and to levy execution thereon to satisfy such finding and all accrued costs unless the same be satisfied as herein provided. Such officer in the execution of such writ shall if necessary break open any gates or other inclosures for the purpose of taking such animals as are named and described in said writ and as soon as he takes the same he shall feed, and otherwise take good care of them as long as said animals are in his possession and he shall immediately post at least three notices in conspicuous places in his precinct and in the precinct where the owner or agent of such animals resides, for three days stating thereupon in short and comprehensive language the seizure of such animals and his authority therefor, and the amount of damages found to be due by the appraisers, the name of the owner of such animals, the amount of accrued costs and the aggregate amount of such sums due, and notifying the owner or owners or any of their agents that unless they or either of them, redeem the same by paying all the sums due as herein provided within three days, that the same or as many of the same as are necessary to satisfy such damage and costs, will be sold by him at public sale at the front door of the office of the justice of the peace issuing the execution. Upon the fourth day if such animals have not been thus redeemed he shall proceed to sell the same at public auction at the front door of such justice's office to the highest and best bidder for cash, and when thus sold he shall give good and sufficient bill or bills of sale to the purchaser or purchasers thereof and within two days after such sale he shall make his return and report to said justice of the peace and likewise turn over all moneys derived from such sale,

which money thus derived shall be applied to the payment of such damage and costs and the balance, if any, shall be by such justice of the peace turned over to the owner or owners of such animals or to the agent thereof: *Provided, however*, that the owner or owners of the animals thus sold may redeem the same at any time within three months after such sale if such animals are still alive by paying to the purchaser or purchasers thereof or to their legal representatives in possession of said animals twice the amount of the price paid therefor at said public sale at the rate of fifteen (15) cents per day for each and every day kept by such purchaser or purchasers or their legal representatives: *Provided, further*, that after three months from the date of such sale such animals are not redeemable and such sale shall become absolute.

Sec. 4. The fees of the justice of the peace in the cases mentioned in this act shall be as follows and no more: For receiving the case and entering it in his record, five (5) cents for appointing each appraiser and swearing him, ten (10) cents; for posting and serving all the notices required herein ten (10) cents; for receiving the findings of the appraisers and recording the same, twenty-five (25) cents; for issuing the execution and receiving the return of the constable including all other records, matters and things, fifty (50) cents. The constable shall receive for his fees as follows, and nothing more: For serving the writ of execution one dollar (\$1.00) for making the sale of each animal twenty-five (25) cents if less than ten, and if more than ten fifteen (15) cents; for making his report herein required and turning all the moneys, to the justice of the peace, etc., twenty-five (25) cents, for taking care of each animal for each day, twenty-five (25) cents, if less than five animals, if more than five and less than ten animals, fifteen (15) cents and if more than ten animals five (5) cents each.

Sec. 5. The provisions of this act shall only apply to damaging animals of known owners and shall in no way conflict with the existing laws regarding animals of unknown owners and it shall only apply to such animals as horses, cattle, mules, oxen, burros, sheep and goats.

Sec. 6. All laws and parts of laws in conflict with the provisions hereof be and the same hereby are repealed and this act shall be in force and effect from and after May first, A. D. 1903.

CHAPTER 74.

AN ACT TO AMEND SECTION 1543, COMPILED LAWS OF 1897, RELATIVE TO SPECIAL LEVIES FOR SUCH SCHOOL PURPOSES. *H. B. No 115; Approved March 17, 1903.*

CONTENTS.

Sec. 1. Section 1543, Compiled Laws of 1897, regarding special tax levies by boards of directors. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1543, Compiled Laws of 1897 is hereby amended to read as follows: "That a special levy, not exceeding seven and one-half (7-5) mills, may be levied by the district board in the same manner as such levy is made for general expenses in section 1535, title 11, chapter 1, Compiled Laws of 1897, to be used as a sinking fund for the payment of outstanding bonds and for enlarging school houses or building additional school buildings: *Provided*, no levy shall be made for the creation of a sinking fund at less period than ten years after such bonds have been issued. The sinking fund may be applied by the directors to the purchase and cancellation of outstanding bonds of the district and to the building of additional school houses or the enlargement of their present school buildings"

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect in thirty days after its passage and approved.

CHAPTER 75.

AN ACT TO PROVIDE FOR AN ASSISTANT SECRETARY FOR THE TERRITORY OF NEW MEXICO. *H. B. No. 55; Approved March 17, 1903.*

CONTENTS.

Sec. 1. Office of assistant secretary created. Appointment. Salary. Qualification.

Sec. 2. Assistant secretary. Powers.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The secretary of the territory is hereby authorized to appoint his chief clerk to be assistant secretary, at a salary of three hundred dollars (\$300.00). per year, payable monthly out of any territorial funds appropriated for miscellaneous expenses of the secretary's office. Such assistant

secretary shall before entering upon the discharge of his duties give bond to the territory in the sum of five thousand dollars (\$5,000.00), which bond shall be approved by the secretary of New Mexico and filed in his office, and shall take and subscribe an oath of office as required by law.

Sec. 2. The assistant secretary shall have power, in the absence of the secretary, to file all instruments required by the laws of New Mexico to be filed in the office of the secretary of New Mexico, and to certify to copies thereof, under his hand and the great seal of the territory, with the same force and effect as if the same had been filed or certified by the secretary of the territory.

Sec. 3. This act shall be in force from and after its passage.

CHAPTER 76.

AN ACT ENTITLED AN ACT TO AMEND SECTION 1067 OF THE COMPILED LAWS OF 1897 RELATING TO THE MANNER IN WHICH THE DEATH PENALTY SHALL BE INFLICTED. *H. B. No. 110; Approved March 17, 1903.*

CONTENTS.

- Sec. 1. Section 1067, Compiled Laws of 1897, regarding the manner of inflicting the death penalty, Amended.
- Sec. 2. Limitation on number who shall witness execution.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 1067 of the Compiled Laws of 1897 is hereby amended by adding to said section the following: "And such execution shall be conducted privately, the sheriff conducting the same shall erect an enclosure within which said enclosure said execution shall take place, and the board of county commissioners in any county in this territory where it shall become necessary under the law to have an execution is hereby authorized and empowered to expend the necessary sum of money to erect such an enclosure as shall be private and not open to the public except as hereinafter provided: *Provided, further,* that the expenditure for such inclosure shall in no instance exceed the sum of two hundred dollars (\$200.00).

Sec. 2. Hereafter executions in this territory shall not be witnessed by to exceed twenty persons including members of the medical profession, officers of the law, clergymen and representatives of the press, the said list to be prepared by the sheriff and approved by the judge of the district court.

This act shall take effect and be in force from and after its passage.

CHAPTER 77.

AN ACT IN RELATION TO THE MANAGEMENT OF THE TECOLOTE LAND GRANT. *H. B. No. 208; Approved March 17, 1903.*

CONTENTS.

- Sec. 1. Board of trustees. To manage and control.
- Sec. 2. Members of boards of trustees. Qualifications.
- Sec. 3. Election of board of trustees. Notice to be published. Qualification of voters. Term of office.
- Sec. 4. Board of trustees. Organization. Duties of President, Secretary and Treasurer.
- Sec. 5. Powers of board.
- Sec. 6. Meetings of board. Special meetings may be called. Compensation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the management and control of that certain tract of land, known as the Tecolote land Grant, situated in the County of San Miguel in the Territory of New Mexico and patented by the United States to the town of Tecolote, is hereby vested in a board of trustees, to be elected as hereinafter provided, which said board of trustees shall be a body corporate under the name of the Board of Trustees of the Tecolote land grant, and with full power under such name to sue and be sued and with the further powers hereinafter enumerated.

Sec. 2. Members of such board of trustees shall be residents and owners of real estate within the limits of said Tecolote land grant.

Sec. 3. Upon petition of not less than twenty residents or owners of real property within said Tecolote land grant, it shall be the duty of the board of county commissioners of San Miguel county, to order an election to be held for the choice of such trustees and fix the time and place thereof, and to give ten days' notice of such election by publication in some newspaper of general circulation in said San Miguel county. At such election all actual residents within the limits of said Tecolote land grant, who are owners of real estate within the same and qualified electors at the general election held in this territory shall be qualified electors, and the five persons receiving the highest number of votes at such election, shall be by said board of county commissioners declared trustees of said grant and shall hold their office for the term of two years and until their successors are elected

and qualified. The vote at said election shall be canvassed by said board of county commissioners, of San Miguel county, and said election shall be conducted in all respects as now provided by law for general elections in this territory, except that no registration shall be necessary. Upon the expiration of the term of office of the trustees herein provided for, it shall be the duty of the said trustees to call an election for the choice of their successors, which election shall be conducted as hereinbefore provided.

Sec. 4. Said board of trustees shall chose one of their number as president, and one as secretary and treasurer, who shall hold their offices for the period of two years and shall give bond for the faithful performance of their duties, in such sum as may be determined by said board. It shall be the duty of the president to preside at the meeting of said board and to act as the executive officer thereof, and to take such action as may be necessary for the carrying out of the rules and orders of such board. It shall be the duty of the secretary and treasurer to keep a record of the proceedings of such board, to sign, with the president, all warrants for the payment of money and to have the custody of all funds, money and papers belonging to said board.

Sec. 5. Said board of trustees shall have the following powers: First, to control and manage the Tecolote land grant, to prohibit and regulate the cutting of timber, and grazing of stock upon the same. Second, to recognize and confirm by deed of conveyance all bona fide adverse holdings of real estate on said grant. Third, to lease such portion of said grant, as to them may seem to be to the best interest thereof, and to fix the rent and term thereof. Fourth, to adopt a corporate seal, which shall be used in the testing of all official acts and doings of said board of trustees. Fifth, to adopt rules of procedure, to make any and all rules and regulations necessary for the proper carrying out of the powers hereby granted and to have and exercise all rights and powers incidental to the powers hereinbefore granted.

Sec. 6. The regular meetings of said board of trustees shall be held on the first Monday of each alternate month, special meetings may be held at any time on the call of the president, members shall be entitled to receive the sum of two dollars (\$2.00) per day for attending regular meetings to be paid by such board of trustees, and all costs and expenses of the election hereinbefore provided for, shall likewise be paid by said board of trustees.

Sec. 7. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER 78.

AN ACT WITH REFERENCE TO THE SELECTION, SEGREGATION, LEASING AND SALE OF THE LANDS HERETOFORE DONATED BY THE UNITED STATES TO THE TERRITORY OF NEW MEXICO FOR INSTITUTIONAL, IRRIGATION AND OTHER PURPOSES. *C. B. No. 113; Approved March 17, 1903*

CONTENTS.

- Sec. 1. United States land commission. Compensation. Locating Agent. Appointment. Duties. Salary. Shall give bond. Powers of commission.
- Sec. 2. Salaries and expenses to be paid out of sale or lease of lands.
- Sec. 3. Money advanced to be repaid.
- Sec. 4. Lands to be sold to reimburse territory for amounts appropriated. Section 32, chapter 69, Laws of 1901. Amended.
- Sec. 5. All moneys derived from sales or leases to be paid to territorial treasurer.
- Sec. 6. Section 5, chapter 69, Laws of 1901. Amended. Commissioner of public lands. Salary. Expenses. Accounts to be filed with auditor.
- Sec. 7. All leases of lands donated for improvement of Rio Grande or for reservoirs to be cancelled. Applications not to be received. Refund of money.
- Sec. 8. Duties of commissioner of public lands.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That for the purpose of enabling the United States land commission, created by the act of congress of June 21st, 1898, for the selection of land donations within the Territory of New Mexico to proceed with its duties, and complete the selection of lands donated under said act of congress, each member of said commission as now constituted is hereby allowed a compensation for his services as such the sum of five hundred dollars (\$500.00) per annum, payable monthly. The locating agent of the said commission shall perform such duties as may be required of him by said commission, including the selection of all lands, the preparation of all field notes, descriptions, maps, plats, lists, statements and office work in connection with the duties of such locating agent, and shall receive in full compensation for such service a salary of eighteen hundred dollars (\$1,800.00) per annum, payable monthly; and, in addition to such salary he shall be allowed his actual and necessary traveling expenses, and actual and necessary expenses in the field, while engaged on business of said land commission, as such selecting agent, and shall give a bond to the Territory of New Mexico in the sum of five thousand dollars (\$5,000.00) conditioned for the faithful performance of all his duties and true rendering of all accounts, which bond shall be made by some surety company authorized to do business in the Territory of New Mexico, and shall be approved as to form by the solicitor general of the terri-

tory. The said commission is further authorized to procure the necessary stationery, supplies and clerical assistance for the proper conduct of the affairs of the commission, and shall be allowed therefor a sum not more than one thousand dollars (\$1,000.00) in any one year.

Sec. 2. For the purpose of paying the salaries and expenses of locations, etc., the lands selected and located by the said commission are charged with the payment thereof, out of the proceeds of the sale or leases of the same, to be paid by the territorial treasurer upon the warrant of the territorial auditor, to be issued upon itemized and verified accounts filed with the said auditor.

Sec. 3. For the purpose of reimbursing the various persons who have advanced, or may hereafter advance the moneys required for the location of any of the lands granted for the benefit of the various territorial institutions, reservoirs and improvements in the flow of the Rio Grande, the board of public lands is hereby authorized and directed to allow, as a credit on the purchase or lease of lands such amounts so advanced, to be evidenced by the books and receipts of the said United States land commission and to be charged as a part of the actual and necessary expenses in procuring, selecting and administering the donations under said act of congress of June 21st, 1898, as now provided by law; and all sums of money heretofore advanced for the locating and lease and sale of lands, which said locations, or the leases or sales of which have not been and shall not be finally approved, or which may be cancelled or disapproved under the further provisions hereof, shall be returned to said persons so making said advances.

Sec. 4. The commissioner of public lands and the board of public lands of the Territory of New Mexico shall proceed, at as early a date as possible, to cause to be sold the lands of the various institutions, except the University, for the purpose of reimbursing the Territory of New Mexico for the amount appropriated in cash for such various territorial institutions by the 35th legislative assembly, and for the purpose of paying to each of said institutions the amount in excess of such appropriations, as provided in said appropriation act; and are hereby directed to pay into the hands of the territorial treasurer, and to the credit of the various institutions, all sums derived from such sales; and section 32 of chapter 69 of the acts of the legislative assembly of the Territory of New Mexico of 1901 is hereby amended by striking out the figures "50" in the fifth line of such section, and inserting in lieu thereof the figures "75."

Sec. 5. Hereafter all moneys derived from approved

leases, sales, etc., of territorial lands, shall be paid to the territorial treasurer by the commissiomer of public lands, on the first day of each month, to the credit of the several funds entitled to receive the same and to furnish to said territorial treasurer an itemized statement which will enable the latter official to keep the correct accounts with the various territorial institutions and with the permanent reservoir fund and the improvement of the Rio Grande fund.

Sec. 6. Section 5 of chapter 69 of the Laws of 1901, with reference to the contingent expenses of the board of public lands, is hereby amended by striking out the words and figures "fifteen hundred dollars (\$1,500.00)" and inserting in lieu thereof "one thousand dollars (\$1,000.00)," and hereafter the salary of the commissioner of public lands, and the contingent expenses of the office, shall be paid upon a warrant drawn by the territorial auditor upon the territorial treasurer, out of the public land funds, proportionately out of each of said funds; and the commissioner of public lands shall file with the territorial auditor an itemized statement and account of all such contingent expenses before the warrant shall issue for the payment thereof. Said itemized account of such expenditures, as well as the itemized account of contingent expenses of the United States land cammission, and of the locating agent, to be made under oath.

Sec. 7. The commissioner of public lands and the board of public lands of the Territory of New Mexico are hereby ordered and directed to cancel all leases entered into or approved by them for the leasing of lands donated for the improvement of the Rio Grande in New Mexico or the surface flow thereof, except such leases, if any, as have heretofore been approved by the secretary of the interior, or are now in his office for approval and the said officers are hereby directed to cancel all leases of lands donated for reservoirs for irrigation purposes, heretofore made by them, if any, except contracts heretofore made by them for the location of lands under reservoir sites, and approved by the secretary of the interior, or now pending with that official for approval. And the said officers are further directed not to accept applications for the leasing of any lands donated for water reservoirs for irrigating purposes or for the improvement of the Rio Grande or the surface flow thereof, and, further, to return to all parties who have heretofore made application for the leasing of any such lands, which applications are hereby directed to be cancelled, all sums of money paid by any such parties upon such leases. Said moneys to be so repaid out of any moneys now on hand in the permanent reservoir fund

or improvement of the Rio Grande fund, or out of any moneys hereafter coming into such funds, respectively.

Sec. 8. The commissioner of public lands shall immediately procure from said United States land commission for the location of lands under said act of congress, and keep in his office, a transcript of all selections if he should not now have the same, and shall also enter at once upon the record book in his office, the approval, by the secretary of the interior, when made, of all locations of lands for institutional or other purposes, and also the action of the secretary of the interior in approving or disapproving any leases or sales of any such lands.

Sec. 9. This act shall be in force and effect from and after its passage.

CHAPTER 79.

AN ACT ENTITLED "AN ACT TO PROVIDE FOR ADJUSTING THE INDEBTEDNESS OF LUNA COUNTY TO GRANT COUNTY."

H. S. for H. B. No. 34; Approved March 17, 1903.

CONTENTS.

Sec. 1. Commission to assemble and ascertain total amount of indebtedness due Grant county.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. For the purpose of adjusting the indebtedness due by Luna county to Grant County, and to fix a basis for the settlement thereof, it shall be the duty of the auditor, treasurer and superintendent of public instruction of the Territory of New Mexico to assemble as a commission for that purpose, and ascertain, on or before the first day of May, A. D. 1903, the total indebtedness, at the time of the creation of Luna county, of Grant county from which Luna county was segregated, less cash on hand to meet such indebtedness (not including as cash on hand the amount of money in school funds credited to the school districts of Grant county now a part of Luna county, for the year 1901), and less the value of all permanent public improvements remaining in Grant county, and also ascertain from the assessment rolls for the year 1900 the value of all taxable property embraced within the limits of Luna county that was taken from Grant county, and thereupon to determine the amount of such indebtedness that may be due from Luna county to Grant county, less the amount of cash on hand to meet such indebtedness (not including the school funds aforesaid), as such

conditions existed on the first day of April, A. D. 1901; and the amount so found to be due from Luna county to Grant county, by said commission, shall be final and conclusive in both counties.

Sec. 2. This act shall be in force from and after its passage and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 80.

AN ACT RELATIVE TO BOUNTIES ON WILD ANIMALS. *H. B. No. 94; Approved March 17, 1903.*

CONTENTS.

- Sec. 1. Chapter 10, Laws of 1901, regarding bounty on wild animals. Amended.
Sec. 2. Application for payment of bounty. Affidavit. Proviso.
Sec. 3. False affidavit. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That chapter 10 of the Session Laws of 1901 be and the same is hereby amended to read as follows:

"The several boards of county commissioners are hereby authorized and directed to levy annually a special tax on horses, bovine cattle, sheep and goats that may be found in their respective counties to any amount not exceeding four (4) mills, on the assessed value thereof for the purpose of raising money with which to pay bounties for the killing of wild animals. Such special tax shall be collected in the manner provided by law for the collection of other county taxes and paid into the county treasury as a "Wild Animal Bounty Fund" to be used exclusively for the payment of bounties for the killing of wild animals at the following rates:

"For each coyote or wild cat, two dollars (\$2.00); for each lynx, two dollars (\$2.00); for each gray wolf, lobo, panther or mountain lion, twenty dollars (\$20.00); for each bear, ten dollars (\$10.00).

"That no bounty certificates shall be issued in payment of scalps under the provisions of this act unless there are funds in the "Wild Animal Bounty Fund" to pay the same.

"Sec. 2. That each party presenting an application for the payment of the bounties provided for in section 1 of this act, shall make affidavit before the probate clerk and ex-officio clerk of the board of county commissioners that he killed the said wild animals in the county wherein he applies for bounty, setting forth the location and the date of said killing, and wherever possible furnishing witnesses to verify his state-

ment: *Provided*, that no bounty shall be paid under this act for any wild animal where claim is not presented within ninety days from the date it was killed.

"Sec. 3. Any person who shall make application for payment of bounty as provided in this act for any wild animal killed outside of the county wherein he makes the application or who makes a false affidavit as to any facts stated in his application, shall be deemed guilty of a misdemeanor and upon conviction may be fined in any sum not to exceed fifty dollars (\$50.00) for each offense, and all such fines when collected shall be paid into the "Wild Animal Bounty Fund" of the county wherein the case occurred."

Sec. 4. All acts and parts of acts in conflict with this act are hereby repealed and this act shall take effect and be in force from and after its passage.

CHAPTER 81.

AN ACT ENTITLED AN ACT TO PREVENT THE CUTTING OF TIMBER FROM SCHOOL SECTIONS. *H. B. No. 139; Approved March 17, 1903.*

CONTENTS.

Sec. 1. Unlawful to cut timber from certain school sections or territorial lands. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter it shall be unlawful for any person, persons, company or corporation, to cut, take or destroy any timber from or on any school section numbered sixteen and thirty-six, or other territorial lands within the Territory of New Mexico. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof in a court of competent jurisdiction in the territory, shall be punished by a fine in the sum of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00), or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment, in the discretion of the court trying the case. The violations of the provisions of this act upon each day shall constitute a separate and distinct offense.

Sec. 2. This act shall be in full force from and after its passage.

CHAPTER 82.

AN ACT TO AUTHORIZE THE TREASURER OF LUNA COUNTY TO PAY OVER TO THE TREASURER OF THE COUNTY OF GRANT CERTAIN MONEYS. *H B. No. 172; Approved March 17 1903.*

CONTENTS.

Sec. 1. Treasurer of Luna county authorized to pay over money to treasurer of Grant county.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The treasurer of the County of Luna is hereby authorized, empowered and directed to pay to the treasurer of the County of Grant, all sums of money collected or hereafter collected by said Luna county under and by virtue of levies made by Grant county prior to the creation of Luna county, viz: For the years 1899 and 1900, for the payment of interest on bonds of said Grant county.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 83.

AN ACT ENTITLED "AN ACT IN REFERENCE TO BURIALS IN CHURCHES AND CHURCHYARDS AND OLD CEMETERIES."
H. B. No. 190; Approved March 17, 1903.

CONTENTS.

Sec. 1. Unlawful to disturb remains of persons previously interred. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter it shall be unlawful to inter the remains of any deceased person in any church, church yard or old cemetery, when it shall in order to do so, be necessary to disturb or remove the remains or any part thereof of any person permanently interred in the same place. And any person who shall bury or aid in burying any deceased person in any such church, church yard or old cemetery and in doing so shall remove or disturb the remains or any part thereof of any person previously interred therein, shall be deemed guilty of a misdemeanor and on conviction thereof before any justice of the peace or district court, shall be fined in any sum not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00).

Sec. 2. This act shall be in force and effect from and after its passage.

CHAPTER 84.

AN ACT AUTHORIZING BOARDS OF COUNTY COMMISSIONERS TO ESTABLISH ELECTION DISTRICTS IN PRECINCTS CASTING OVER FIVE HUNDRED VOTES. *C. B. No. 87; Approved March 17, 1903.*

CONTENTS.

Sec. 1. Board of county commissioners may divide certain precincts.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That in any precinct in any county in this territory where more than five hundred votes are cast at any general election, the board of county commissioners may divide such precinct into two or more election districts for voting purposes, and define the boundaries and designate the polling places therein, and elections in such election districts shall be held in all respects as now provided by law for the holding of elections in precincts.

Sec. 2. This act shall be in force and effect from and after its passage, and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 85.

RELATIVE TO PUBLIC DITCHES. *C. B. No. 103; Approved March 17, 1903.*

CONTENTS.

Sec. 1. Opening of drainage to protect dams from flood and regulate water of acequia. Failure to perform work. Penalty.

Sec. 2. Excess water from drainage. Owners to pay for use. Penalty.

Sec. 3. Excess water from two or more ditches. Unlawful to obstruct any drainage. Penalty.

Sec. 4. Majority of mayordomos of joint drainage to regulate use of excess water.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Whenever it be necessary to open a drainage or tajo, near the main dam of any public ditch, with the object of drawing off the excess of water, or to regulate the water of said ditches, with the object of protecting the dams from any floods, the water commissioners of said ditch are

hereby authorized to determine the place where such drainage or tajo shall be opened, under the supervision of the mayordomo by the owners of the irrigible land of said ditch and the work shall be taxed in proportion to the irrigible property of each owner, and any person or persons belonging to said ditch, who shall fail or refuse to perform the work taxed by the commissioners, shall be fined in a sum not less than one dollar (\$1.00) nor more than two dollars (\$2.00) per day for every day he shall refuse to perform the work imposed or required from him.

Sec. 2. Hereafter the owners of irrigible land, situate in the margin of any drainage or discharge of water from any public ditch, being a member or members of said ditch, shall have to pay for the irrigation of said lands in the same manner as all other lands belonging to said ditches, whether they irrigate them for the uses of harvest, or for hay land, alfalfa or other pasture, and shall not be excused on the pretext that they only use the excess of water of said ditch. And if such owners of land use the water without the consent of the mayordomo, they shall be fined in a sum not less than ten dollars (\$10.00) nor more than twenty dollars (\$20.00).

Sec. 3. When two or more public ditches drain their excess of waters at the same drainage, the same shall be considered as joint owners of said drainage and no person or persons that may own lands on either side of said drainage shall have the right to use the water of said drainage without the consent of the mayordomos of said joint owners, and said owners of land shall not be permitted to put any impediment, incumbrances, or sidegates or dams upon said drainage and if at any time it shall be discovered that they use the water with the object of irrigating land whether it may be for harvest, or hay land to cut hay or to purchase stock of any kind, they shall be responsible for the damages that the excess of water may cause in time of flood; furthermore if they use the water without the consent of the mayordomos of said joint owners' drainage, they shall be fined in a sum not less than five dollars (\$5.00) nor more than ten dollars (\$10.00) for each and every offense.

Sec. 4. That the majority of the mayordomos of said ditches of the joint drainage, shall be authorized to make arrangements with said owners of land regarding the use of said excess waters, and the result of said arrangements shall be for the benefit of all ditches that may discharge the water upon such drainage.

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall be in force and take effect from and after its passage.

CHAPTER 86.

AN ACT ENTITLED AN ACT PROVIDING FOR THE DRILLING OF ARTESIAN WELLS FOR THE PENITENTIARY. C. B. No. 9; Approved March 17, 1903.

CONTENTS.

Sec. 1. Superintendent authorized to purchase materials to drill well.

Sec. 2. Appropriations. Payable from funds derived from sale of penitentiary lands.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The superintendent of the New Mexico penitentiary is hereby authorized to purchase or lease such drilling machinery, hire such expert labor, and purchase such materials as may be necessary for the drilling of an experimental artesian well, said well to be drilled at some suitable place which may be selected by the said superintendent and board of penitentiary commissioners on land belonging to said penitentiary.

Sec. 2. For the purposes of this act the superintendent of said penitentiary and the penitentiary commissioners are hereby authorized to expend a sum not exceeding ten thousand dollars (\$10,000.00), or so much thereof as may be necessary, payable out of permanent improvement fund from the sale of penitentiary lands, and the auditor is hereby directed to draw his warrant in accordance herewith upon presentation of proper vouchers.

Sec. 3. This act shall be in full force and effect from and after its passage.

CHAPTER 87.

AN ACT PROVIDING FOR A UNIFORM SYSTEM OF INDEX FOR ALL INSTRUMENTS AFFECTING TITLES TO REAL ESTATE, AND FOR OTHER PURPOSES. C. B. No. 14; Approved March 17, 1903.

CONTENTS.

Sec. 1. Board of county commissioners. May order index of records affecting real property.

Sec. 2. Index books to be provided. ..

Sec. 3. Form of index.

Sec. 4. Manner in which town property or lands shall be entered. Proviso.

Sec. 5. Form of index provided in this act to be the standard in the territory.

Sec. 6. Tax levy by boards of county commissioners to provide for "County Index Fund." ...

Sec. 7. Fees of clerk and recorder for indexing. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever, in the opinion of the board of county commissioners of any county in the territory, it is necessary for the convenience of the public and the better preservation of titles to real property, to have a complete and accurate index made of all instruments of record affecting real property, they are hereby authorized to have such index made by the probate clerk and ex-officio recorder of said county, and it shall be the duty of said clerk and recorder to immediately proceed to index the records beginning with the first volume of each of the above series of records and indexing each instrument therein until all of the said records shall have been accurately indexed to the first day of April, 1903.

Sec. 2. For the purpose of the index mentioned in this act there shall be provided index books, and all instruments affecting title to real estate shall be indexed in their regular order alphabetically arranged, as well as in their reverse order in the same manner.

Sec. 3. The said index shall be ruled and headed in the manner and form substantially as shown on the following form:

Time of reception			Grantor or Mortgagor		Grantees		
Month	Day	Year.					
Or Mort- gagees	Instru- ment	Book	Page	Date of Instrument			
				Month	Day	Year.	
						Description of Prop-	
Subdivision of sections and numer of lots						Town or City	
erty.	Sec. Blk.	Tp.	R.	Acres.	Remarks.		
Addition							

Sec. 4. All town property or lands shall be entered and described in the said index in the manner indicated, according to numbers, metes or bounds: *But, provided*, that where this is impossible from the nature of the description then the tract or tracts may be described by some appropriate title, or the owner's name.

Sec. 5. The form of index provided in this act shall hereafter be adopted as the standard form of index and shall be used throughout the territory from and after the first day of April, 1903.

Sec. 6. The board of county commissioners of any county in the territory are hereby authorized to levy a tax of not to exceed one (1) mill on the dollar on all taxable property in any such county to provide a fund for the payment of all expenses incident to carrying out the provisions of this act; said levy to be made at the same time and in the same manner as the levy for the general county expenses, and all funds collected under such levy shall be kept separate by the county treasurer and collector, to be known as the "County Index Fund," to be paid out by the board of county commissioners after they have received and approved the index aforesaid: *Provided*, that this levy shall only be made for the year 1903.

Sec. 7. The clerk and recorder shall receive as compensation for indexing the records as herein provided the sum of five (5) cents for each instrument indexed; but shall receive no extra compensation for indexing any instrument filed after the first day of April, 1903; but shall be required to index all such instruments in like manner, free of charge to said county. For each failure in compliance with the provisions of this act, the clerk and recorder shall be held responsible for all damages suffered by the injured party, to be recovered on his official bond: *Provided*, that no provision of this act shall apply to any county wherein the records have been re-indexed or the index books revised during the period of ten years immediately preceding the passage of this act.

Sec. 8. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 88.

AN ACT PROVIDING FOR THE EQUALIZATION OF TAXES AMONG THE COUNTIES OF THE TERRITORY OF NEW MEXICO. C. *B. No. 127; Approved March 17, 1903.*

CONTENTS.

- Sec. 1. Board of equalization. To meet annually. To determine value of real and personal property.
- Sec. 2. President of board. May appoint members to visit counties and determine value of real and personal property. Proviso.
- Sec. 3. Members of board of equalization to make report.
- Sec. 4. Board of equalization may direct traveling auditor to visit counties and determine value of taxable property.

- Sec. 5. Board of equalization. To fix value. To prepare abstract of taxable values to be filed in auditor's office.
- Sec. 6. Duties of treasurer and auditor as to raising revenue.
- Sec. 7. Legislative assemblies to make specific appropriations.
- Sec. 8. Apportionment of revenue to be raised. County commissioners to make levy. Auditor to use data supplied by board of equalization.
- Sec. 9. Tax levies by county commissioners. Allowance for delinquencies. Default in raising revenue. Proviso.
- Sec. 10. This act not to amend section 2635. Compiled Laws of 1897.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The territorial board of equalization, at its annual meeting on the first day of January, A. D. 1904, and once every year thereafter, shall ascertain and determine the value of the property, both real and personal, subject to taxation in every county of the Territory of New Mexico. In ascertaining and determining the value of such property said territorial board of equalization may have recourse to and may use the assessment rolls of said counties, returned for the year preceding the holding of their meeting, together with any other facts and information showing the true value of the real and personal property of said counties.

Sec. 2. The president of said territorial board of equalization may appoint members of said board to visit any of the counties in this territory, whose duty it shall be, when appointed, to visit the county or counties assigned to him by the president of said territorial board of equalization, and within four weeks of his appointment and assignment, make a report to said board of equalization at its office in Santa Fe, New Mexico, showing the value of property both real and personal in the county or counties assigned to him, as the same has been determined and ascertained by him: *Provided*, that no member of said board shall be appointed to visit or be assigned the county in which he has his residence.

Sec. 3. The report of the said members of said board of equalization, when returned to and filed with the territorial board of equalization, and the facts therein contained, may be used for the purpose of finally ascertaining and determining the value of the property subject to taxation within the said counties of the Territory of New Mexico.

Sec. 4. The territorial board of equalization may also, by an order, direct the traveling auditor and bank examiner to visit any county within the Territory of New Mexico, whose duty it shall be when so directed, to visit any given county in the territory, to make thorough and exhaustive examination and investigation of said county with a view to and for the purpose of ascertaining and determining the value of the property, both real and personal, subject to taxation in such

county, and shall report the result of such examination and investigation to the territorial board of equalization, and file the same in the office of said territorial board of equalization, and the facts therein contained may be used for the purpose of finally ascertaining and determining the value of the property, subject to taxation, within such county.

Sec. 5. The said territorial board of equalization from the data hereinbefore provided for shall finally determine and fix the value of all property both real and personal in every county in the Territory of New Mexico and shall prepare an abstract, alphabetically arranged by counties, showing the taxable value of every county in the territory, and certify the same to the territorial auditor, whose duty it shall be to file the same in his office.

Sec. 6. The territorial treasurer and the territorial auditor, shall between the first and third Mondays of February of each year, commencing with the year 1904, determine the amount of revenue directed to be raised by the legislative assembly for territorial purposes for the ensuing fiscal year, and whenever the said legislature has not directed a specific sum or amount to be raised for a designated purpose, or for the maintenance of a designated territorial institution, then it shall be the duty of said territorial treasurer and territorial auditor to ascertain and determine the product of said levy, taking and assuming for such purpose that one (1) mill on the dollar levied upon the taxable property of the territory will produce twenty-eight thousand dollars (\$28,000.00). And when said amount of revenue, so directed to be raised, as herein provided has been ascertained and determined, the result thereof shall be compiled and reduced to writing and filed in the office of the territorial auditor.

Sec. 7. Hereafter the legislative assemblies of the Territory of New Mexico, when providing revenue for territorial purposes shall make fixed and specific appropriations for the salary fund for the different charitable institutions, for the different educational institutions, for the different penal institutions, for the purpose of paying interest on the territorial debt, for the maintenance of the capitol, for miscellaneous purposes, for deficiencies in the territorial revenues, and for any other purposes for which a territorial appropriation has been made.

Sec. 8. The territorial auditor shall between the first and second Mondays of April of each year, commencing with the year A. D. 1904, apportion the amount of revenue directed to be raised, by the legislative assemblies, among the different counties of the territory in the ratio and proportion which the taxable value of each county, bears to the taxable value of the

entire Territory of New Mexico, and said auditor shall by an order, a copy of which shall remain in his office on file, direct the board of county commissioners of every county in the Territory of New Mexico, to levy a tax upon all taxable property, in their respective counties, sufficient to raise the amount of revenue required by said order to be by that county raised and shall fix a minimum levy for each county for such purpose. The said auditor in apportioning the amount of revenue, to be raised by the different counties of the territory, shall refer to and use the data, supplied to and furnished him, by the territorial board of equalization, in the abstract provided for in section 6 of this act, and shall refer to and use no other data, in making said apportionment.

Sec. 9. The boards of county commissioners of the several counties of the Territory of New Mexico, shall annually commencing with the year A. D. 1904, at the time they make levies and assess taxes for general county and other purposes, make a levy upon all the property subject to taxation in their respective counties, sufficient to raise the amount of revenue which they were respectively directed by the territorial auditor to raise, and when the same has been collected, it shall be paid into the territorial treasury, as now provided by law. The several boards of county commissioners, in making levies for the purpose aforesaid, shall allow fifteen per cent. for delinquencies in and costs of collection of taxes, and whenever it has been customary in any of the counties of this territory, that the delinquencies in the collection of taxes, has been greater than fifteen per cent., then such greater amount shall be allowed. If at any time there is a surplus of revenue raised for territorial purposes in any of the counties of this territory, such surplus shall remain in said fund and shall not be diverted therefrom and the following year such surplus shall be deducted by said board of commissioners of the county, producing such surplus, from the sum to be raised for territorial purposes. If any county of the territory shall default in the raising of the revenue, or any part thereof, directed to be raised by the territorial auditor, and shall remain in default for a period of thirty days, after the end of the fiscal year for which it was directed to raise such revenue, then it shall be the duty of the territorial auditor to at once cause a new levy to be made, upon the taxable property of such defaulting county, sufficient to make up the amount of taxes, and such levy made by the territorial auditor as herein provided shall be collected and paid over to the territorial treasurer as other taxes are collected and paid over: *Provided*, that no person who has paid his taxes under the first levy made shall be required to again pay taxes

for territorial purposes for the fiscal year during which default was made. And such county commissioners are hereby authorized, whenever the treasurer may be in default, to employ special counsel to appear in behalf of the county, for the protection of county interests.

Sec. 10. Nothing in this act shall be construed to in any wise amend or modify section 2635 of the Compiled Laws of 1897; but the said territorial board of equalization, when it, under the provisions of section 2635 of said Compiled Laws determines and fixes the value upon the property belonging to railroads, telegraph, telephone and sleeping-car companies doing business in the Territory of New Mexico, shall determine the value of such property as the same exists and is found in the different counties in this territory, and the value of such property shall be credited to the county wherein it exists and is found.

Sec. 11. This act shall take effect and be in force from and after its passage.

CHAPTER 89.

AN ACT TO PROVIDE FOR THE REFUNDING OF CERTAIN COUNTY INDEBTEDNESS. *C. B. No. 107; Approved March 18, 1903.*

CONTENTS.

- Sec. 1. Commission created to refund indebtedness incurred in aid of railroad construction.
- Sec. 2. Commission empowered to issue refunding bonds.
- Sec. 3. Refunding bonds. Form. Rate of interest. Maturity.
- Sec. 4. Territorial treasurer to transmit statement of amount of indebtedness refunded to county officers. Statement to be filed and recorded.
- Sec. 5. Tax levy by county commissioners to pay interest on bonds issued. Creation of sinking fund levy.
- Sec. 6. Deficiency in interest fund. Proviso.
- Sec. 7. Tax levy for interest and sinking fund. Duty of officers. Neglect or refusal. Penalty.
- Sec. 8. Failure of county commissioners to make levy. Duty of auditor. County commissioners to aid refunding commission.
- Sec. 9. Statement of rate of tax levy to be transmitted to county commissioners by auditor. To be placed on tax roll.
- Sec. 10. Provision for payment of principal and interest of refunding bonds when county or part of county is incorporated into a new county.
- Sec. 11. All refunded bonds, coupons and judgments to be returned to territorial treasurer. Upon final payment to be returned to the county.
- Sec. 12. County to pay expense of refunding.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the governor, the secretary and the treasurer of the Territory of New Mexico be, and they are hereby

created a commission for the purpose of refunding the indebtedness incurred by any county of the Territory of New Mexico in aid of railroad construction, and are authorized and empowered to compromise and adjust all such indebtedness as was recognized and validated by the act of congress of the United States of 1897, together with the past due and unpaid coupons upon the bonds issued in aid of such railroad construction, and the interest upon such coupons and any judgment recovered for any such past due coupons and interest thereon and judgments obtained on said coupons, or any part thereof, whenever the owners of such indebtedness may consent and agree to such compromise and the refunding of such indebtedness.

Sec. 2. Whenever an arrangement and compromise of the indebtedness mentioned in section 1 of this act shall have been effected by and between the said commission and the owner or owners of such indebtedness, by which it is mutually agreed by and between the parties to surrender the existing indebtedness of the class specified in section 1, and to receive therefor and in lieu thereof bonds issued under this act for a sum not to exceed sixty (60) per cent. of the whole indebtedness surrendered, the said commission created by said section 1 shall be, and is hereby, authorized to issue refunding bonds in exchange for such indebtedness.

Sec. 3. The bonds to be issued in exchange for the indebtedness specified in section 1 of this act shall be in the usual form of coupon bonds, and shall be dated on the date of their issue, shall be in the denomination of one thousand dollars (\$1,000.00) or multiples thereof, shall bear interest at the rate of three per cent. per annum, payable semi-annually on the tenth days of January and July of each year, shall be signed by the governor and the treasurer of the Territory of New Mexico and countersigned by the auditor thereof, and shall be payable in forty years from the date of their issue, and may be redeemed at the pleasure of the territory at any time after thirty years from their date, principal and interest to be payable at such bank in the City of New York, in the State of New York, as may be designated on the face of the bonds and coupons, and shall be known and styled as the Railroad Aid Refunding Bonds. It is hereby specifically provided that the principal and interest of each such bond shall be paid only as provided in this act, and no other county in the territory, by territorial levy or otherwise shall be taxed to pay any part of such principal and interest.

Sec. 4. Whenever any of the indebtedness hereinbefore referred to shall be refunded as provided for in this act, the territorial treasurer shall open and keep an account with the

county the bonds of which have been so refunded, and shall immediately make out and transmit to the proper officer or officers charged with the administration of the affairs of such county a statement under his official seal, showing the amount and character of the indebtedness of such county so refunded, with the amount of bonds issued therefor, when due, and when and where payable, with the rate of interest and amount of interest that will be required annually to be paid thereon, and such statement shall be filed in the proper office, and recorded in the official records of such county.

Sec. 5. In all cases where the said indebtedness has been so refunded, the board of county commissioners of the county owing such indebtedness shall, annually, at the time of assessing and levying taxes therein, cause to be made, assessed and levied, for each year, upon all the taxable property of such county, in addition to other authorized taxes, a sufficient sum to pay the interest upon the bonds issued and disposed of under the provisions of this act for the benefit of such county. And twenty years after such bonds shall have been issued the county commissioners or proper county officials may cause to be levied an additional amount, annually, sufficient to pay ten per cent. of the total amount of such bonds so issued, and shall make such levy thirty years after the issue of such bonds, and shall maintain such last mentioned levy until a sinking fund has been provided sufficient to pay the total amount of such bonded indebtedness; and such sinking fund levy shall be in addition to the annual interest levy provided for in this section; and all such taxes shall be assessed, levied and collected as other county taxes are assessed, levied and collected, but the proceeds of such levy shall be paid directly into the hands of the territorial treasurer by the officer or officers collecting the same.

Sec. 6. In event sufficient money shall not be realized each year from the collection of taxes under the levy provided in section 5 of this act to be made, with which to pay the interest on said bonds when due, the deficiency shall be paid out of any funds in the treasury of said county, and such deficiency shall be paid over by the proper officer or officers entrusted with such county funds upon demand therefor by the territorial treasurer: *Provided*, that all moneys collected in such county for the payment of such interest, remaining in such fund after such payment, shall be paid into such fund or funds of such county, to reimburse said fund or funds for any such amount so paid out as herein provided, for interest payments.

Sec. 7. It shall be the duty of the proper officers of such counties, respectively, to assess, levy and collect the taxes in

this act provided for the payment of interest and sinking fund of such bonds, and to pay the same into the territorial treasury at the times of the payment of the territorial taxes; and any failure to comply with the provisions of this act, by any officer or officers charged with the performance thereof, or any neglect or refusal by them or either of them to assess, levy and collect, or to pay over, such taxes as aforesaid, or to apply said taxes and the proceeds thereof as in this act provided, for the purpose for which the same was collected, shall be deemed a misdemeanor, and upon conviction thereof such person or persons so convicted shall be fined in a sum not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00), and, in addition thereto, in a sum equal to the amount which should have been so assessed, levied or collected, or paid over, as the case may be; and in addition to such fine or fines, shall be imprisoned in the county jail or territorial penitentiary for a period of not less than three months nor more than one year, in the discretion of the court. And, if any county officer or officers charged with the duty or duties herein provided, shall fail to perform the same he shall be compelled to such performance, by any court of competent jurisdiction within this territory.

Sec. 8. In event of the failure or refusal of the county commissioners, or of the county assessor, or either, to make such levy, as herein provided, the territorial auditor shall make such levy directly within such county for the purpose of carrying out the provisions of this act. And, in event of the proper tax collector of such county neglecting, failing or refusing to collect such taxes, the governor of the territory shall immediately remove such collector, and appoint some qualified person to collect such taxes.

The county commissioners of such county, the indebtedness of which has been so refunded, shall furnish to the refunding commission created by this act all such information as to taxable value, etc., within such county, as will enable such commission to carry out the provisions of this act as to assessment, levy, collection, etc., and such commission, or either of the members thereof, or the territorial auditor, shall have power to demand of the county officials of such county such information.

Sec. 9. In event the tax herein provided for shall be levied by the territorial auditor, as herein provided, he shall transmit to the board of county commissioners, or to the officer or officers exercising like duties, a statement of the rate of taxes fixed and levied upon the taxable property within such county for the purposes hereinbefore provided, and such statement shall be entered upon the tax roll of said

county, and the tax so entered shall be collected as other county and territorial taxes are collected.

Sec. 10. All taxable property, and the increase thereof, within the limits of such county shall be, and is hereby, pledged to the payment of the principal and interest upon such bonds issued as herein provided, for the benefit of such county; and in event of the division, disincorporation or dissolution of such county in any manner, or the cutting off of any part of the same, then said refunding commission, or the territorial auditor, shall cause the proper tax to be assessed, levied and collected, as herein provided, by the county or counties into which such original county may have been divided, or to which any part thereof may have been attached, in the proportion which such part so detached or cut away from the original county, as to taxable values, bears to that part of the original county so remaining, if any; and if such original county is wholly disincorporated, then to cause such tax to be assessed, levied and collected by the county or counties with which the original county or any part thereof has been incorporated. .

Sec. 11. In the event of the refunding of any such indebtedness, as in this act provided, the bonds, coupons and judgments so refunded, together with all other evidences of indebtedness for the redemption or refunding of which said bonds were so issued, shall be turned over to the territorial treasurer, and the same shall become the property of the Territory of New Mexico, to be returned to such county, duly cancelled, and discharged, upon the final payment of such refunding bonds by such county.

Sec. 12. The county, the bonds of which shall have been so refunded under the provisions of this act, shall pay into the territorial treasury all the costs and expenses incurred for the refunding of such indebtedness, and also shall pay all other costs in connection therewith, including the annual cost of exchange, etc., if any.

Sec. 13. This act shall take effect and be in force from and after its passage.

CHAPTER 90.

AN ACT AUTHORIZING THE PRACTICE OF OSTEOPATHY IN THE
TERRITORY OF NEW MEXICO. *C. S for H. B. No. 120;*
Approved Nareh. 18, 1903.

CONTENTS.

Sec. 1. Osteopathy. Who entitled to practice. Requirements. Penalty for prescribing medicines or practicing surgery.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Sec. 1. Hereafter any graduate of any recognized college or school of osteopathy in the United States or Europe where the course of study comprises at least four terms of five months each, shall be authorized to practice the profession of osteopathy and osteopathic surgery, and administer the treatment to the sick and afflicted known as the science of osteopathy, and as taught by the recognized schools; such person shall have his diploma from said school recorded, and such osteopaths shall file an affidavit as to good moral character, and that the person presenting the diploma is the rightful owner thereof, to the probate clerk of the county where said person resides, and the probate clerk shall register said diploma. Any osteopath who prescribes, gives or uses any medicines, or drugs, or who practices major or operative surgery, or who calls or advertises himself or herself in any way other than as osteopathic physician or osteopathic surgeon, shall be guilty of a misdemeanor, and upon conviction of the same shall be punished as provided in section 9 of House Bill 36 of the 35th Legislative Assembly, notwithstanding any requirements or provisions of an act entitled "An Act to regulate the practice of medicine and to provide for the board of health in New Mexico," approved March 8th, 1901.

Sec. 2. This act shall be in force and effect from and after its passage, and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 91.

AN ACT GRANTING TO COUNTY COMMISSIONERS THE RIGHT OF CONDEMNATION OF PRIVATE PROPERTY FOR ROADS AND HIGHWAYS IN UNINCORPORATED COUNTY SEATS. C. B. No. 116; Approved March 18, 1903

CONTENTS.

Sec. 1. County commissioners to have same right of condemnation as city councils.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Sec. 1. That the board of county commissioners of the counties of the Territory of New Mexico shall have the same right of condemnation of private property for the purpose of laying out, establishing, widening, or in any manner improving streets, highways, alleys, approaches thereto in unincorporated county seats of such counties to the same extent and by the same procedure as now exists by the city councils of the cities of the Territory of New Mexico over streets and highways within the limits of such cities.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force from and after its passage.

CHAPTER 92.

AN ACT TO AMEND CHAPTER 43 OF THE SESSION LAWS OF NEW MEXICO OF 1901, AN ACT ENTITLED "AN ACT FOR THE PROTECTION OF SCHOOL CHILDREN AND OTHER PURPOSES," A. C. B. No. 79; Approved March 18, 1903.

CONTENTS.

Sec. 1. Applicant for teacher's certificate found to be afflicted with tuberculosis. Duty of examining physician and superintendent of public instruction. Applicant to have right of appeal to board of health.

Sec. 2. Right of appeal to board of health only. Violation of this provision. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Sec. 1. That whenever in this act the phrase or expression "physician appointed by the president of the New Mexico board of health" occurs, the same is hereby stricken out and the following inserted in lieu thereof: "Any reputable physician, who is a resident of New Mexico and has a license to practice medicine in New Mexico, and who is not himself afflicted with the disease."

Whenever such physician shall find the applicant to be afflicted with tuberculosis, or what is commonly known as consumption, it shall be his duty to at once notify the superintendent of public instruction of New Mexico, giving the name, age and sex of the applicant, together with the date of examination, and a general statement of the case. Whereupon it shall be the duty of said superintendent to at once notify the school superintendents of each county in New Mexico of the information he has received. And in case any applicant so examined shall feel aggrieved he may take appeal to the New Mexico board of health and present himself for examination, and it shall be the duty of said board of health to thoroughly examine such person, and the result and decision of said board shall be final, and such decision shall be certified by it to the superintendent of public instruction of New Mexico, who shall thereupon notify the different school superintendents of each county.

Sec. 2. No person who has been examined by a physician under this act or of the act of which it is amendatory, and has been rejected by such physician shall apply to any other physician for examination or certificate, but he shall have right of appeal to the board of health of New Mexico. And if any person shall apply to any other physician in violation of this act, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed one hundred dollars (\$100.00) and shall not be eligible as a school teacher in any county of New Mexico. The fine hereby imposed shall be collected and paid over to the territorial school fund.

Sec. 3. All acts and parts of acts in conflict are hereby repealed and this act shall be in force thirty days after its passage.

CHAPTER 93.

AN ACT AMENDING AN ACT ENTITLED AN ACT IN RELATION TO MAYORS OF CITIES AND TO OTHER OFFICERS. *C. B. No. 125; Approved March 18, 1903.*

CONTENTS.

- Sec. 1. Section 1, chapter 9, Laws of 1903, regarding term of office of city officers. Amended.
- Sec. 2. Section 3, chapter 9, Laws of 1903, regarding election of city officers and term of office. Amended.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

Sec. 1. That section 1 of an act entitled an act in rela-

tion to mayors of cities and to other officers, approved Feb. 28, 1903, be and it is hereby amended so as to read as follows:

"Section 1. Hereafter in cities the term of office of the mayor, clerk and treasurer shall be two years."

Sec. 2. That section 3 of said act be and it is hereby amended by adding thereto the following: "And on the first Tuesday of April, 1906, and each two years thereafter, the qualified voters of cities shall elect one alderman and one member of the board of education from each ward, who shall hold their offices for the period of four years. The provisions of this act shall apply to all cities in the territory, whether incorporated under general or special laws."

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER 94.

AN ACT REQUIRING OFFICERS OF COMPANIES AND CORPORATIONS DOING BUSINESS IN THE TERRITORY TO DISCLOSE, TO THE OFFICER LEVYING THEREON, THE NUMBER OF SHARES OR INTEREST OWNED IN SUCH COMPANY OR CORPORATION BY A SHAREHOLDER. C. S. for H. B. No. 47; Approved March 18, 1903.

CONTENTS.

Sec. 1. Attachment of shares. Corporation to give verified statement of number of shares owned.

Sec. 2. Refusal to give verified statement. False statement. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico

Section 1. When any interest or amount of shares had or owned by any person in any corporation incorporated under the laws of this territory or any foreign corporation doing business in this territory, shall be levied on under the process of attachment or execution, the secretary of such corporation shall, upon notice of such levy being delivered to him by the officer making the same, give to such levying officer a verified statement of the number of shares or amount of the interest held or owned by the defendant in any such corporation; and in event said corporation is a foreign corporation upon whose secretary process cannot be served, then such levy may be served upon any agent of such corporation upon whom service of process may be made, and such corporation shall then, within ninety days after the

service of such process upon such agent, cause said agent to give such officer so serving the same such verified statement of the number of shares owned by the defendant in such company or corporation as above provided.

Sec. 2. Any corporation whose secretary or clerk shall fail, neglect or refuse to make and give to such levying officer such statement as above provided, or who shall give an inaccurate or false statement, shall be deemed guilty of a misdemeanor, and the corporation so failing shall forfeit and pay to the party injured a penalty of fifty dollars (\$50.00) for every such failure, neglect or refusal, and all the damages resulting therefrom.

Sec. 3. This act shall take effect and be in force from and after its passage.

CHAPTER 95.

AN ACT TO ENABLE COUNTIES TO COMPROMISE AND ADJUST THEIR BONDED AND OTHER INDEBTEDNESS. *H. B. No. 198; Approved March 18, 1903.*

CONTENTS.

- Sec. 1. Board of county commissioners authorized to compromise indebtedness of counties.
- Sec. 2. Commissioners to pledge credit of county to pay indebtedness compromised.
- Sec. 3. Compromise of rate of interest upon adjusted indebtedness and indebtedness evidenced by coupon bonds. Commissioners to pledge credit of county.
- Sec. 4. Terms upon which compromise shall be effected.
- Sec. 5. Coupons so compromised receivable in payment of taxes.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The boards of county commissioners of the several counties of the Territory of New Mexico, in which the bonded indebtedness issued and outstandings is in excess of twenty per centum of the taxable property of such county, according to the last general assessed valuation thereof, are hereby authorized and empowered to compromise and adjust the existing legal bonded indebtedness of such counties, together with the past due and unpaid interest coupons, the interest on such coupons, any and all judgments recovered for past due coupons and interest thereon, or any part thereof, and any other valid and subsisting indebtedness, evidenced by judgments, whenever owners or holders of such indebtedness may consent and agree to such compromise and adjustment.

Sec. 2. Whenever an adjustment of the indebtedness mentioned in section 1 of this act shall have been effected by

and between the board of county commissioners of any county and the owner of such indebtedness or any portion thereof, by which it is mutually agreed by and between the parties to compromise the said existing indebtedness for a sum less than the amount due, then said board of county commissioners shall be and it hereby is authorized and empowered to enter into a contract with the owners or holders of any such indebtedness, by resolution, whereby said board of county commissioners shall agree and promise and pledge the credit of the county to pay the amount of the said indebtedness mutually agreed to be paid and compromised.

Sec. 3. The said board of county commissioners, whenever it has effected the compromise of any such indebtedness and has agreed with the owners and holders of any such indebtedness as to the amount of such indebtedness it will pay and liquidate, may also compromise and adjust the rate of interest said indebtedness shall bear, which in no event shall be more than four per centum per annum; and, whenever said indebtedness is evidenced by coupon bonds, said board of county commissioners may compromise and adjust the amount of the indebtedness as evidenced by the coupons attached to said bonds it will pay and liquidate, which, in no case shall be more than four per centum per annum upon the principal indebtedness; and said board of county commissioners is authorized and empowered to enter into a contract with the owner and holder of such interest and coupon indebtedness by resolution whereby said board of county commissioners shall agree and promise and pledge the credit of the county to pay the amount of the said indebtedness so compromised and mutually agreed to be paid.

Sec. 4. The terms of the compromise effected, as provided for in this act, shall be by the board of county commissioners stamped upon the back of any and all bonds outstanding against the county making the same, and if said county shall default for a period of one year in the payment of the interest becoming due upon any of the compromised indebtedness, then the whole of such indebtedness as it originally existed before such compromise was effected shall become due as if no such compromise had been made. The terms of said compromise which said board is hereby required to stamp and endorse upon the back of said bonds shall recite that all of said indebtedness shall become due and be payable in the event default is made for a period of one year in the payment of interest on any of said bonded indebtedness in the following language, viz: "The indebtedness evidenced by this bond is compromised at — per centum (here insert per centum agreed upon between board and owners of bonds) of its face

value; if interest coupons remain unpaid one year after presentation and demand, then entire indebtedness evidenced by this bond shall again become due and payable and this compromise is void and of no effect." And upon the back of the coupons attached to said bond the following shall be stamped and endorsed: "Indebtedness herein compromised; see bond No. ____" (here insert number of bond to which coupon is attached).

Sec. 5. Any of the coupons compromised as herein provided shall be receivable in payment of taxes levied for all county purposes, by the holders of any such coupons.

Sec. 6. This act shall be in force and take effect from and after its passage.

CHAPTER 96.

AN ACT AMENDING SECTION 2 OF CHAPTER 72 OF THE SESSION LAWS OF 1901. *H. B. No. 148; Approved March 18, 1903.*

CONTENTS.

- Sec. 1. Section 2, chapter 72, Laws of 1901, regarding assessments against real estate and publication of notice of assessments. Amended.
- Sec. 2. Section 5, chapter 72, Laws of 1901, regarding times of payment of assessments and issue of sewer certificates. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 2 of chapter 72 of the acts of the Legislative Assembly of the Territory of New Mexico, approved March 20, 1901, entitled "An Act for the construction and maintenance of sewers in the towns and cities of the territory," be and the same is hereby amended so as to read as follows: "Section 2. If said city council or board of trustees shall elect to assess against said lots and pieces of land abutting on said line of sewer or sewers, or so near thereto as to be in the opinion of said city council or board of trustees benefited by the construction thereof, a part or all of the cost of such construction they shall record the amount so elected to be so assessed, and shall proceed to apportion said amount among said lots and pieces of land according to the frontage thereof, so that each front foot of such lots and pieces of land shall pay its proportionate share of the total cost of such construction, and shall assess such amount so determined against each of such lots and pieces of land, and shall for one month, in some newspaper published within the limits of said municipality where said sewer or sewers are to be built, or if there be no daily newspaper there published, then for

four successive weeks in some weekly newspaper therein published, a notice containing a brief description of the lots and pieces of land to be so assessed, and the amount to be assessed against each, and shall in said notice state that according to the provisions of this act any owner or owners in whole or in part or their legal representatives, has the right within ten days after the date of the last publication of said notice, stating the date, to bring suit in the district court having jurisdiction according to law then existing over the controversy, to review the action of said city council or board of trustees."

Sec. 2. That section 5 of said act be and it is hereby amended so as to read as follows: "Section 5. Said assessments may be made payable in ten annual payments. The first payment to be made at the time the general taxes of said municipality are next due, whether it be a semi-annual or annual, time for the payment of the same. The second payment, one year thereafter, the following payments annually thereafter. Interest at a rate not to exceed six per cent. per annum in the discretion of said city council, or board of trustees, shall be charged upon any balances or amounts not paid when the same are due. The property owner, may, at his option, pay any installment or the whole of such assessment before the same is due, and interest thereon shall cease from the time of such payment. The said city council or board of trustees are hereby authorized to issue certificates to be designated "sewer certificates" to the amount of such assessment running for a period of eleven years, and payable in equal annual installments from and after the date of the issuance thereof. Such certificates shall be issued for convenient amounts, shall be negotiable in form and shall bear interest from date at the rate not to exceed six per cent. per annum, in the discretion of said city council or board of trustees. Said certificates shall be issued to the person or persons entitled to receive the same, and shall state that they are issued in payment for the construction of said sewer or sewers. They shall be payable from money received from the assessments above provided for, and any deficiency in the fund to pay said certificates, shall be paid from the general revenues of said municipality, and said certificates may be redeemed at the option of the municipality issuing them at any time before maturity."

Sec. 3. This act shall be in full force and effect from and after its passage.

CHAPTER 97.

AN ACT AUTHORIZING AND EMPOWERING THE BOARD OF EDUCATION OF THE CITY OF SANTA FE AND TERRITORY OF NEW MEXICO, TO PROVIDE FOR THE ERECTION OF A PUBLIC SCHOOL BUILDING, AND MAKING PROVISIONS FOR MEANS TO ERECT THE SAME. *C. S. for H. B. No. 143; Approved March 18, 1903.*

CONTENTS.

- Sec. 1. Bond issue to erect school building authorized. Form. Maturity. Rate of interest. On petition question of bond issue to be submitted to vote. Form of ticket.
- Sec. 2. Special tax levy to pay interest on bonds. Provision for sinking fund.
- Sec. 3. Sale of bonds.
- Sec. 4. Material and labor to be furnished by penitentiary. Proviso.
- Sec. 5. Board of education to provide grounds, material and labor.
- Sec. 6. Donation of land. Description.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. For the purpose of erecting a suitable and commodious public school building in the City of Santa Fe in this territory, the board of education of the City of Santa Fe, of the Territory of New Mexico, is hereby authorized and empowered on or after the 1st day of June, A. D. 1903. and prior to the 1st day of November, A. D. 1903, to issue the bonds of said board of education of the City of Santa Fe in the Territory of New Mexico, as a body corporate, to the amount of twenty-eight thousand dollars (\$28,000.00), or so much thereof as may be required, said bonds to be of the denomination of one hundred dollars (\$100.00) or any multiple thereof, not exceeding one thousand dollars (\$1,000.00), to be made payable to bearer and redeemable at any time after twenty years after the date thereof and to become absolutely due and payable thirty years after the date thereof, to bear interest from the date thereof at the rate of five per centum per annum, payable semi-annually at some national bank or trust company in the City of New York, State of New York, such interest to be evidenced by coupons representing each six months period of interest, attached to said bond; said bonds shall be signed by the board of education of the City of Santa Fe of the Territory of New Mexico, by its president and sealed with the seal of said board and attested by the secretary of said board and the coupons thereof shall bear a fac-simile of the signature of the secretary of said board, which shall be engraved thereon; said bonds shall be numbered commencing with one and running upwards, the coupons of each bond shall bear

the number of the bond and its relative number to other coupons on the same bond and shall show the date thereof, when due and payable and that it is for interest on the particular bond to which it is attached for the six months terminating on the date when it becomes due and payable. Should seventy-five of the legal voters of the City of Santa Fe, who are the owners of taxable property not exempt from taxation for school purposes in the said City of Santa Fe, on which each of them has paid taxes for the year 1902, within thirty days after the passage of this act, petition the said board of education of the said City of Santa Fe to cause to be submitted to a vote of the legal voters in the said City of Santa Fe the question whether or not said bonds hereinbefore provided for shall be issued, it shall be the duty of said board of education to request the mayor and the city council of the said City of Santa Fe to order an election to be held within forty days thereafter to vote upon the question as to whether said bonds shall be issued or not, and thereupon the said mayor and city council shall order an election to be held in the various wards of said city, at which all persons, who may be qualified voters in said city under the laws of the Territory of New Mexico and who were registered as such at the last city election of the City of Santa Fe, shall be entitled to vote. The ticket which they shall vote, shall be in either of the following forms:

"For public school house bonds of the City of Santa Fe—Yes," or:

"For public schoolhouse bonds of the City of Santa Fe—No." And if a majority of those voting shall vote "yes," such vote shall be considered as consenting to the issue of said bonds and the said board shall be authorized to issue the same; but if a majority of those voting shall vote "no," such vote shall be considered as being opposed to the issue of said bonds and the said board of education shall not have the right to issue the same.

Should no petition be made, as herein provided by seventy-five owners of taxable property as before mentioned within thirty days from the date of this act, then the said board of education shall be authorized and empowered to issue said bonds without further delay or any further authorization.

Sec. 2. To secure the payment of interest on each of the bonds which may be issued, according to the provisions of the last preceding section, as it falls due and also the principal of said bonds, the said board of education of the City of Santa Fe is hereby authorized and required, after it shall have determined to issue said bonds, to fix a rate of tax levy, to be levied on all of the property subject to taxation in the

said City of Santa Fe and not exempt by law from taxation for school purposes at its meeting to be held on the first Monday in June in each year or as soon thereafter as possible, making due allowance therein for taxes which may not be collected, which rate of taxation when so fixed shall be certified by the president and secretary of said board of education under the name of said board and the seal thereof, to the board of county commissioners of the County of Santa Fe, which said board of county commissioners shall include the amount of such rate of taxation so fixed in the order making levies for taxation for the various purposes, required to be made by them for the county and the same shall be and become a special levy on all the property subject to taxation in the City of Santa Fe and not exempt therefrom for school purposes and the amount thereof when collected shall be kept in a separate fund to pay such interest.

Ten years after the date of said bonds and each year thereafter, a sufficient tax shall in like manner be levied and collected to pay each year one-twentieth part of the principal of said bonds, and the moneys so collected to pay such interest and principal shall be used for no other purpose.

Sec. 3. The said bonds, authorized by this act to be issued, shall be disposed of at not less than par, out of which shall be paid the costs of issuing, printing and disposing of the same, and all the rest or remainder of the proceeds thereof shall be used solely and only for the purpose of preparing the plans and specifications of such building and in aiding and assisting in the construction of the same, as a suitable and commodious building for the public schools of the City of Santa Fe of the Territory of New Mexico and in paying all the necessary expenses thereof and furnishing the same with suitable, modern furniture.

Sec. 4. To aid and facilitate the construction of said building, the board of penitentiary commissioners and the superintendent of the penitentiary are hereby directed and required to furnish, free of charge, convict labor for the excavation for the foundation of said building, with the aid of skilled superintendents, should such be necessary; said penitentiary authorities shall also furnish all the brick and lime which may be necessary for the construction and completion of said building, and also all other materials which can be furnished through the convict labor, machinery and appliances of said penitentiary, and which may be necessary for the completion of said building: *Provided*, that the penitentiary shall be paid and advanced the funds necessary to defray expenses of guards, and actual cost of materials furnished.

Sec. 5. The board of education of the City of Santa Fe, of the Territory of New Mexico, shall provide suitable grounds on which to construct the building provided for by this act and shall also prepare, or cause to be prepared, all the plans and specifications for said building and hire and pay all architects, necessary superintendents, foremen and skilled labor which can not be supplied from the penitentiary convicts, and all other labor which may not be supplied by the penitentiary convicts.

Sec. 6. There is hereby donated and granted in fee simple to the board of education of the City of Santa Fe and Territory of New Mexico, in order that it may be used as a school house site, for the building in this act provided to be erected, if it should be suitable therefor, all that certain lot, piece and parcel of land situate within the City of Santa Fe, County of Santa Fe and Territory of New Mexico, described as follows:

"Beginning at a point on Washington Avenue where the southern line of the abandoned Fort Marcy military reservation terminates, being the southeast corner of the premises now occupied by Governor Otero, and running thence southerly more or less along Washington Avenue 158 feet 9 inches to the corner of a brick wall enclosing a corral on the north side of the Old Palace building; thence running westerly more or less along the north side of the adobe wall of the corral of the Old Palace building and along the wall enclosing the corral or yard to the north of the building occupied by the post office at Santa Fe, 261 feet and 6 inches to the northwest corner of the corral or yard on the north side of said building occupied for the post office; thence running northerly more or less along Lincoln Avenue 165 feet 4 inches to the southern line of the abandoned Fort Marcy military reservation and the property thereof now occupied by Governor Otero as his residence; thence easterly more or less along the southern line of the said abandoned Fort Marcy military reservation and part thereof now occupied by Governor Otero 267 feet to the place of beginning, being all of that portion of land lying between Washington and Lincoln Avenues and between the southern boundary of the abandoned Fort Marcy military reservation, where it is occupied by Governor Otero as his residence, and a north line described by a line extended from the north end or corner of the brick wall aforesaid along the wall extending therefrom in an east and west direction, and also extending straight along the projection of said wall, to the next wall in line therewith lying to the north of the yard or corral occupied by the post office at Santa Fe, to the northwest corner of the wall forming said corral or yard on Lincoln Avenue, except that there is not included in this grant

the portion of said lot and tract of land which has heretofore been granted to the Woman's Board of Trade and Free Library Association of the City of Santa Fe.

Sec. 7. This act shall be in force and effect from and after its passage and all acts and parts of acts in conflict therewith are hereby repealed.

CHAPTER 98.

AN ACT TO AMEND SECTION 8 OF THE COMPILED LAWS ON COMMUNITY DITCHES OR ACEQUIAS. H. B. No. 122; *Approved March, 19, 1903.*

CONTENTS.

Sec. 1. Section 8, Compiled Laws of 1897, regarding community ditches being considered corporations. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Sec. 1. That after the last word of section 8 of the Compiled Laws on community ditches or acequias there shall be added as follows: "And every one of said community ditches beginning at the dam or entrance of the water, in continued course to the end of the same, shall be considered as one ditch or acequia only, to be superintended by three commissioners and one mayordomo as now provided by law, except that where two community ditches or more take water from a common ditch or head, they shall be and remain separate and under separate management."

Sec. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 99.

AN ACT REQUIRING MEMBERS OF COMMON COUNCILS IN INCORPORATED CITIES AND MEMBERS OF BOARDS OF TRUSTEES IN INCORPORATED TOWNS AND VILLAGES IN THE TERRITORY OF NEW MEXICO TO BE RESIDENTS AND OWNERS OF REAL ESTATE SUBJECT TO TAXATION WITHIN THE CORPORATE LIMITS OF SUCH CITY, TOWN OR VILLAGE. *H. B. No. 180; Approved March 19, 1903.*

CONTENTS.

Sec. 1. Members of councils or boards of trustees. To be residents and owners of taxable real estate.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That no person shall be eligible to election or service as a member of the common council of any incorporated city or as a member of the board of trustees of any incorporated town or village in the Territory of New Mexico, unless at the time of his election such person shall reside within the corporate limits of the city, town or village in which he is elected and shall also be the owner of real estate subject to taxation situated within such corporate limits.

Sec. 2. This act shall take effect and be in force from and after its passage and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 100.

AN ACT TO REQUIRE COUNTY SCHOOL SUPERINTENDENTS TO FURNISH THEIR OFFICIAL BONDS AND QUALIFY WITHIN CERTAIN TIME AND FOR OTHER PURPOSES. *H. B. No. 59; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. County school superintendents to give bond.
Sec. 2. Present county school superintendents to give bond.
Sec. 3. Failure to give bond. Penalty.
Sec. 4. Failure to make appointment of school fund. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the county school superintendents be and they are hereby required to furnish their respective official bonds within thirty days after having received their certificate of election or appointment.

Sec. 2. All present county school superintendents shall within thirty days after the passage of this act furnish their respective official bonds and fully qualify as now required by law.

Sec. 3. Any such county school superintendent failing to comply with the provisions of the foregoing sections shall be summarily removed by the governor who shall fill such vacancy as now provided by law.

Sec. 4. All county school superintendents who shall hereafter fail in making the apportionment of school funds in their respective counties and to file their reports relative thereto as now provided by law, shall be dealt with as provided in section 3 of this act.

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 101.

AN ACT FIXING THE SALARIES OF COUNTY COMMISSIONERS OF COUNTIES OF THE FIRST CLASS. C. B. No. 118; Approved March 19, 1903.

CONTENTS.

Sec. 1. Boards of county commissioners. Salary.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter each member of the board of county commissioners of counties of the first class in the Territory of New Mexico, shall receive as salary the sum of eight hundred dollars (\$800.00) per year, to be paid from the general fund of such county.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER 102.

AN ACT TO PROVIDE FOR THE BETTER PRESERVATION, CLASSIFICATION AND INDEXING OF THE SPANISH AND MEXICAN ARCHIVES OF THE TERRITORY. C. S. fo. H. B. No. 118, Approved March 19, 1903.

CONTENTS.

Sec. 1. Territorial librarian authorized to send archives to library of congress. Provisions for preservation and return of archives.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That for the purpose of more effectually preserving and classifying the old Spanish and Mexican archives, prior to the year 1850, now in the possession of the territory, and of making the same useful to the general public and the historian, the territorial librarian is hereby authorized and directed to forward all such archives now in his custody, or which may be placed in his hands for the purpose, to the library of congress at Washington, upon securing from the librarian of congress a proper receipt therefor, and a written stipulation that the archives shall be properly classified; that all of them found to relate to land titles or to local and personal matter, and not to be of general historic interest, within one year after their reception at Washington, shall be returned to the territorial library at Santa Fe, without expense to this territory, that the remainder shall be accommodated and carefully preserved in the library of congress, and, as expeditiously as possible, analyzed and indexed; that a copy of such analysis and index shall be furnished, without charge, to the territorial librarian, to be kept in the territorial library at Santa Fe; that, should any of the documents be printed by the library of congress, a reasonable number of copies of the publication shall be supplied without charge to the territorial librarian, to be distributed by him as the territorial legislature may hereafter direct; and finally that within five years from the time of their reception in Washington, all of said documents shall be safely returned to the territorial or state librarian of New Mexico, without any expense to New Mexico.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 103.

AN ACT TO PRESERVE THE PUBLIC HEALTH. *C. B. No. 76;*
Approved March 19; 1903.

CONTENTS.

- Sec. 1. New Mexico board of health. Powers and duties.
- Sec. 2. Regulations regarding nuisances and causes of sickness.
- Sec. 3. Regulations as to railway cars. Proviso.
- Sec. 4. Regulations respecting articles communicating contagious diseases.
- Sec. 5. Inspection and abatement of nuisances and causes of sickness.
- Sec. 6. Removal of nuisance or cause of sickness by owner. Failure. Penalty.
- Sec. 7. Board may remove nuisance. Expense.
- Sec. 8. Right of entry to abate nuisance or cause of sickness.
- Sec. 9. Entry refused. Sheriff or constable to enter.
- Sec. 10. Isolation of persons infected with diseases dangerous to public health. Proviso.
- Sec. 11. Provision in case infected person cannot be removed.
- Sec. 12. Provision in case infected person cannot be removed.
- Sec. 13. Inspection of travelers coming from infected places. License to be obtained. Traveling without a license. Penalty.
- Sec. 14. Justice of the peace or judge of district court may issue warrant for removal of infected persons.
- Sec. 15. Infected baggage, clothing or other goods. May be seized.
- Sec. 16. Small-pox. Quarantine. Notice.
- Sec. 17. Quarantine of infected precincts or counties.
- Sec. 18. Infected counties. Duty of president of board of health. May call special meeting.
- Sec. 19. Physicians or persons knowing of existence of contagious disease to report to health officer or justice of peace. Failure to report. Penalty.
- Sec. 20. House-holders failing to give notice. Penalty. Transportation of bodies dead of certain diseases prohibited. Preparation for transportation of bodies dead of certain diseases. Embalmers to obtain certificate. Transit permits. Shipping by express. Disinterred bodies.
- Sec. 21. Provisions for vaccination.
- Sec. 22. Appointment of county health officers and assistants. Powers.
- Sec. 23. Rules and regulations. Board to make. Publication.
- Sec. 24. Violation of provisions of this act. Penalty.
- Sec. 25. City or town health officer may be county health officer.
- Sec. 26. Costs of carrying out provisions of this act. By whom to be paid.
- Sec. 27. Board of health. Compensation.
- Sec. 28. City officers to aid in enforcing this act. Proviso.
- Sec. 29. Small-pox. Duty of school superintendents. Vaccination of children. Refusal of parents to permit vaccination of children. Penalty.
- Sec. 30. County health officer to vaccinate. Expense.
- Sec. 31. Vaccination of adults. Refusal. Penalty.
- Sec. 32. City councils and boards of trustees. May proclaim quarantine. Publication. May enforce rules and regulations.
- Sec. 33. Chapter 17, Laws of 1901, regarding preservation of public health. Repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the New Mexico board of health, created by chapter 18 of the acts of the 34th legislative assembly, be vested with the powers, and charged with the duties pre-

scribed by said chapter and any acts that have been or may hereafter be passed in amendment thereof.

Sec. 2. The board of health shall make such regulations respecting nuisances, sources of filth, and causes of sickness, applicable to any county, city, town, or village, in the territory, or any part of any such county, city, town, or village, as the peculiar conditions in such county, city, town, or village may in the judgment of said board of health at any time require.

Sec. 3. Said board may also make such regulations as the public health may require, in their judgment, for railway cars and trains of cars, being operated from place to place within the territory, or passing through the territory: *Provided, however*, that regulations applicable to cars or trains of cars shall in no wise conflict with the laws and constitution of the United States; and the enactment of such regulations so in conflict, shall not be held to make such regulations not so in conflict void.

Sec. 4. The said board of health shall also make such regulations as they may deem necessary for the public health and safety respecting any article of personal property, or real estate, which may be capable of containing, conveying, or communicating any infection or contagion, or of creating any sickness. This section shall extend to and include all such articles of personal property as may be brought into or conveyed from any part of the territory to any other part of the territory, and to all such articles as may be brought into the territory from without the territory.

Sec. 5. The board of health shall examine into all nuisances, sources of filth, or causes of sickness, that may in their opinion be injurious to the health of the inhabitants of the territory, or of any county, city, town or village in the territory, or any part of the territory, or of any part of any county, town, city, or village of the territory. This section shall extend to and include the examination of such nuisances, sources of filth, or causes of sickness, as may be found in any railway car, or train of cars, and the board may make specific regulations for the control and abatement of the same.

Sec. 6. Whenever such nuisance, source of filth, or cause of sickness, shall be found on private property the board of health shall order the owner or occupant, or the person or persons that have caused or committed such nuisance, at his own expense, to remove the same within twenty-four hours, and in default thereof, he, she, or they, shall forfeit the sum of not less than twenty-five dollars (\$25.00) nor to exceed one hundred dollars (\$100.00). Each twenty-four hours failure

to obey such order, after the first, shall constitute a separate offense.

Sec. 7. If the owner or occupant shall not comply with such order of the board, the board may cause the said nuisance, source of filth, or cause of sickness to be removed, and the expense incurred thereby shall be paid by said owner, or by such other persons as shall have caused or committed the same. The remedy provided by this section and that provided by section 6, shall be deemed cumulative.

Sec. 8. Whenever the board of health, or any of its officers or agents, shall think it necessary for the preservation of the lives or health of any part of the inhabitants of the territory to enter any building, car or train of cars, or other premises, for the purpose of examining, abating, destroying, removing, or preventing any nuisance, source of filth, or cause of sickness, or danger to life or limb, and shall be refused such entry, any member of the board, or any of its officers or agents, may make complaint before any justice of the peace, or judge of the district court, stating the facts of the case so far as he has knowledge of them.

Sec. 9. Such justice or judge shall thereupon issue a warrant directed to the sheriff, or any constable of the county in which such entry is refused, commanding him to take sufficient aid and between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness, or danger of life or limb, complained of may be and if deemed necessary, by the members of the board of health, or its proper officer or agent in attendance, destroy, remove, or prevent the same. Some member of the board or a duly authorized agent or officer shall always attend and direct the sheriff or constable in the service of such warrant.

Sec. 10. When any person coming from abroad, or residing within any county of this territory shall lately before have been infected with small-pox, bubonic plague, diphtheria, or other sickness, dangerous to the public health, the board shall make effectual provisions, in the manner which they shall judge best, for the safety of the public health, by removing such sick or infected person to a separate house, and providing for the keeping of such person or persons there, until danger of contagion is past: *Provided, however,* that unless such person is indigent the expense of enforcing this section shall be borne by the infected person or persons so isolated.

Sec. 11. If any such infected person cannot be removed without danger to his health, the board of health shall cause provision for such person to be made as provided in the next

preceding section, in the house in which he may be, and in such case they may cause the persons in the neighborhood to be removed, and may take such other measures in respect to the same as they may deem necessary for the safety of the public and the community in which such infected person may be found.

Sec. 12. If any such infected person cannot be removed without danger to his health, the board of health shall make such provisions for him as directed in the next preceding section, in the house in which he may be, and in such case they may cause the persons in the house or the persons in the neighborhood to be removed, and may take such other measures in respect to the same as they may deem necessary for the safety of the inhabitants.

Sec. 13. The board of health may appoint suitable persons to attend any places by which travelers may pass into the territory or from one county in the territory to another county in the territory, or from any part of a county into any part of the same county, from infected places to districts in other states or territories, or in other counties, or in an infected part of a county. The persons so appointed may examine such passengers and travelers as they may have reason to suspect of bringing with them any infection which may be dangerous to the public health, and if need be restrain them from traveling until licensed thereto by the board of health, and any person coming from such infected place or district who shall without license, as aforesaid, travel in violation of the requirements of said board of health, unless it be to travel in the most direct way to the place from whence he, she, or they may have come, after he, she, or they shall have been notified of the requirements of the said board, shall forfeit a sum of not less than twenty-five dollars (\$25.00) nor to exceed one hundred dollars (\$100.00), or may be imprisoned not to exceed thirty days.

Sec. 14. Any justice of the peace or judge of the district court, having jurisdiction in the county in which any person infected with a contagious or infectious disease may be found, may upon proper complaint being made by any member of the board of health, or any duly authorized agent or officer of said board, stating the facts under oath, so far as he has knowledge of them, and that he believes the facts stated, if upon information and belief, are true, may issue a warrant under his hand directed to the sheriff or any constable of his county, requesting such sheriff or constable, under direction of said board of health, or its duly authorized officer or agent to remove any person infected with contagious or infectious disease, and to take possession of convenient houses or lodg-

ings and to produce other necessities for the accommodation, safety and relief of such person.

Sec. 15. Whenever on application of the board of health, or any of its duly authorized officers or agents, it shall be made to appear to any justice of the peace or district judge, in any county in which such justice of the peace or district judge has jurisdiction, that there is just cause to suspect that any baggage, clothing, or goods of any kind, found within the county, are infected with any disease which may be dangerous to the public health, such justice of the peace or district judge shall by warrant under his hand directed to the sheriff or any constable of the county require him to take with him as many men as may be deemed necessary to secure such baggage, clothing, or other goods, and to post such men as guards over the house or place where such baggage, clothing, or other goods shall be, and said guards shall see to it that no person comes near to, or removes such baggage, clothing, or other goods until permitted so to do by the order of the said board of health. Such warrant shall also if it appear to be necessary require the officer to whom the same is directed, under the direction of the said board of health, to impress, rent, or otherwise procure convenient houses or stores for the safe-keeping of such baggage, clothing, or other goods, and the board of health may cause them to be removed to such houses or stores or to otherwise be detained until they shall in the opinion of the board of health be freed from infection.

Sec. 16. When small-pox or any other disease dangerous to the public health is found to exist in any county in this territory, the board of health shall use all possible care to quarantine and prevent the spreading of such infectious disease and shall give notice of infected places to travelers by such means as in their judgment shall be most effectual to the common safety.

Sec. 17. Whenever complaint under oath to said board of health shall be made, showing reasonable ground to believe that a contagious or infectious disease exists in any precinct or precincts, county or counties, in this territory, and the necessity of speedy action to prevent the spreading of the same, it shall be the duty of the said board of health to cause the same to be investigated, and if in their judgment the public health and safety requires it, to cause the said disease and the precinct, precincts, county or counties, in which the same is prevalent to be quarantined under the provisions of this act.

Sec. 18. Whenever such statement, as is mentioned in the last preceding section, shall be filed with the president of

the said board of health, showing reasonable grounds to believe that a contagious disease exists within any county in the territory, to such extent as to imperil the public health and safety, or that there is imminent danger of such disease being introduced therein from surrounding territory, the said president shall at once cause an investigation of the conditions with reference to the prevalence of such disease to be made. If he deems it necessary he shall call a meeting of the board of health to be held as soon as practicable, and the said board shall see to it that the public health and safety are protected by the enforcement of any of the provisions of this act which they may deem necessary or advisable.

Sec. 19.—Whenever any physician or other person shall know that any person is sick with small-pox or other contagious or infectious disease, or of any nuisance dangerous to the public health, he shall at once give notice thereof, if within the limits of any incorporated city, town or village, to the health officer for the county in which such city, town or village is situated; and if not within such city, town or village, then to the justice of the peace in the precinct in which such disease or nuisance exists. Whenever such notice is given to any justice of the peace it shall be his duty to at once notify the health officer of the county. Any physician, justice of the peace or other person failing, neglecting or refusing to perform any duty imposed upon him by this section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$25.00), and not to exceed one hundred dollars (\$100.00).

Sec. 20. Whenever any householder shall know that any person in his family is sick with small-pox, or other contagious disease, dangerous to the public health, he shall immediately give the notice thereof required by the last preceding section, and upon failure to give such notice shall be deemed guilty of a misdemeanor, and punished upon conviction as in said section provided.

The transportation of bodies dead of small-pox, asiatic cholera, yellow fever, typhus fever or bubonic plague, is absolutely forbidden. The bodies of those who have died of diphtheria (membranous croup), scarlet fever (scarlatina, scarlet rash), glanders anthrax or leprosy, shall not be accepted for transportation unless prepared for shipment by being thoroughly disinfected by (a) arterial and cavity injection with an improved disinfecting fluid; (b) disinfecting and stopping of all orifices with absorbent cotton; and (c) washing the body with the disinfectant, all of which must be done by an embalmer holding a certificate as such approved by the territorial board of health. After being disinfected as above,

such body shall be enveloped in a layer of cotton not less than one inch thick, completely wrapped in a sheet and bandaged and encased in an air-tight zinc, tin, copper or lead-lined casket, all joints and seams hermetically soldered, and all enclosed in a strong, tight wooden box; or, the body being prepared for shipment by disinfecting and wrapping as above, may be placed in a strong coffin or casket and the said coffin or casket encased in an air-tight zinc, copper or tin case, all joints and seams hermetically soldered, and all enclosed in a strong outside wooden box.

The body shall be thoroughly injected with an approved disinfectant embalming fluid, and all orifices of the body, such as the nares, mouth, rectum and vagina in the female subject, then plugged with absorbent cotton. The body shall then be washed with the disinfectant and wrapped in absorbent cotton layers one inch thick, then bandaged and placed in an air-tight zinc or metallic case.

All clothing must be removed from the body, the whole arterial system and cavities, including the cerebro-spinal, injected with a disinfectant of the highest germicidal powers. The body must then be thoroughly washed with the disinfectant fluid, all other orifices plugged with absorbent cotton and then covered with absorbent cotton one inch thick, then bandaged and placed in an air-tight zinc or metallic case.

After protecting the hands by either vaseline or gloves, all clothing which has been around the body shall be thoroughly removed and burned. The body shall then be thoroughly washed with a disinfectant of the highest germicidal powers, and sufficient of the disinfectant and embalming fluid injected in the circulatory system to thoroughly saturate all the tissues of the body. All the main cavities of the body shall be filled with the disinfectant, and all orifices plugged with absorbent cotton. The body shall then be thoroughly washed with the disinfectant, wrapped in absorbent cotton not less than one inch thick, and then bandaged and placed in an air-tight zinc or metallic case. When the condition of the body demands the removal of the blood, it may be removed by using a bottle which contains not less than four ounces of the disinfecting fluid. The vein selected for the operation must be opened carefully and the tube introduced to the right auricle of the heart, and the blood aspirated into the bottle without exposing it to the air of the room and without coming into contact with the hands of the operator.

The bodies of those dead of typhoid fever, puerperal fever, erysipelas, tuberculosis and measles, or other dangerous communicable diseases, other than those specified in rules one and two, may be received for transportation when prepared

for shipment by filling cavities with an approved disinfectant, washing the exterior of the body with the same, stopping all orifices with absorbent cotton, and enveloping the entire body with a layer of cotton not less than one inch thick, all to be wrapped in a sheet and bandaged, and incased in an air-tight coffin casket: *Provided*, that this shall apply only to bodies which can reach their destination within twenty-four hours from time of death. In all other cases such bodies shall be prepared for transportation in conformity with rule two. But when the body has been prepared for shipment by being thoroughly disinfected, as in rule two, by an embalmer holding a certificate from the territorial board of health, the air-tight sealing may be dispensed with.

The bodies of those dead of diseases that are not contagious, infectious or communicable, may be received for transportation when encased in a sound coffin or casket and enclosed in a strong outside wooden box: *Provided*, they reach their destination within thirty hours from time of death. If the body can not reach its destination within thirty hours from time of death, it must be prepared for shipment by filling cavities with an approved disinfectant, washing the exterior of the body with the same, stopping all orifices with absorbent cotton, and enveloping the entire body with a layer of cotton not less than one inch thick, and all wrapped in a sheet and bandaged, and encased in an air-tight coffin or casket; but when the body has been prepared for shipment by being thoroughly disinfected as in rule two, by an embalmer holding a certificate from the territorial board of health, the air-tight sealing may be dispensed with.

In cases of contagious, infectious or communicable diseases, the body must not be accompanied by persons or articles which have been exposed to the infection of the disease, unless certified by the proper health officer, as having been properly disinfected; and before selling passage tickets, ticket agent shall carefully examine the transit permit and note the name of the passenger in charge, and of any other proposing to accompany the body, and see that all necessary precautions have been taken to prevent the spread of disease. The transit permit in such cases shall specifically state who is authorized by the health authorities to accompany the remains. In all cases where bodies are forwarded under rule two, notice must be sent by telegraph to the health officer at destination, advising the date and train on which the body may be expected. This notice must be sent by or in the name of the health officer at the initial point, and is to enable the health officer at destination to take all necessary precautions at that point.

Every dead body must be accompanied by a person in charge, who must be provided with a passage ticket, and also present a full first-class ticket, market "corpse" for the transportation of the body, and a transit permit showing physician's or coroner's certificate, health officer's permit for removal, undertaker's certificate, name of deceased, date and hour of death, age, place of death, cause of death, and if of a contagious, infectious or communicable nature, the point to which the body is to be shipped, and when death is caused by any of the diseases specified in rule two, the names of those authorized by the health authorities to accompany the body. The transit permit must be made in duplicate, and the signatures of the physician or coroner, health officer and undertaker, must be on both the original and duplicate copies. The undertaker's certificate and paster of the original shall be detached from the transit permit, and pasted on the coffin box. The physician's certificate and transit permit shall be handed to the passenger in charge of the remains. The whole duplicate copy shall be sent to the official in charge of the baggage department of the initial line, and by him to the secretary of the state or provincial board of health of the state or province to which such shipment is made.

Dead bodies may be shipped by express, and when so shipped, the whole original transit permit shall be placed upon the outside of the box, and the duplicate forwarded by the express agent at point of origin to the secretary of the state or provincial board of health of the state or province to which said shipment was made.

Every disinterred body, dead from any disease or cause, shall be treated as infectious or dangerous to the public health, and must not be accepted for transportation unless said removal has been approved by the health authorities having jurisdiction where such body is to be disinterred, and the consent of the health authorities of the locality to which the corpse is consigned has first been obtained, and such disinterred remains must be enclosed in a hermetically sealed (soldered) zinc, tin or copper lined coffin or box. Bodies deposited in receiving vaults will be treated and considered the same as buried bodies.

Sec. 21. The board of health shall make suitable provisions for the inoculation of the inhabitants of the territory with cow-pox vaccine under the direction of the county health officers.

Sec. 22. The said board of health shall appoint in each county in the territory one reputable physician who shall be the county health officer, and shall be subject to the orders of the said board, and shall be its chief executive officer in his

county for the purpose of carrying out the provisions of this act. As many assistant health officers in any county may be appointed at any time as the board may think the public health and safety may require. Such county health officer and his assistants, for the purpose of enforcing the provisions of this act shall be vested with all the powers vested by law in a constable of the county and the reports required by section 19 to be made to the county health officer shall be made to the physician so appointed. The assistant health officers need not be physicians, but shall at all times act under the direction of the health officer of their respective counties.

Sec. 23. The said board is hereby authorized to make all proper rules and regulations for the proper enforcement of this act, not in conflict with the laws of the territory or laws of the United States, and all such rules and regulations when so made shall be published in the public press of the territory and shall be duly recorded as a part of the proceedings of said board and filed with the secretary of the territory.

Sec. 24. Any person violating any of the provisions of this act, or any of the rules and regulations adopted by said board, if punishment for the same is not herein otherwise provided for, shall be guilty of a misdemeanor and after conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00), and may be prosecuted either by indictment or information, or before any justice of the peace in the county in which such offense is committed.

Sec. 25. The county health officer provided for by section 22 of this act, if there is any incorporated city, town, or village in the county for which he is appointed, shall be a resident of and be appointed from the principal incorporated city, town, or village in the county, and may be the same physician appointed health officer for such city, town, or village, by the municipal governing body thereof.

Sec. 26. The costs of carrying out the provisions of this act except as herein otherwise provided, when the same are incurred in any city, town, or village shall be paid by such city, town, or village, and it shall be the duty of the proper municipal authorities thereof to make proper provision therefor. All costs of enforcing the provisions of this act, incurred outside of any such incorporated city, town, or village, shall be paid by the board of county commissioners of the county in which the same are incurred as a part of the current expenses of such county, and it shall be the duty of the board of county commissioners to make proper provision therefor.

Sec. 27. The members of the territorial board of health for each day's service in attendance upon board meetings, or in the actual discharge of their duties as members of such board shall receive the sum of five dollars (\$5.00), together with their actual and necessary expenses while absent from their homes, to be audited and paid in the same manner as the expenses of the members of the territorial board of equalization are now by law required to be audited and paid.

Sec. 28. The mayor and council and trustees of incorporated cities, towns, and villages of the territory, and the marshals and police officers of such municipal incorporations shall aid in the enforcement of the provisions of this act; and nothing herein contained shall be construed to prohibit the enactment and enforcement of any ordinance by such municipal incorporation as supplementary to this act for the protection of the public health within the limits of such municipality: *Provided*, such ordinance does not conflict with the provisions of this act; and no power which may now be exercised by such municipal incorporation shall be held to be abridged or repealed, except so far as the same may be in conflict with this act.

Sec. 29. It shall be the duty of the school superintendent of each county, to see that all children in his county, of school age, are vaccinated against small-pox, and to that end, each teacher of a public school shall see that the children in his district are successfully vaccinated or have been vaccinated within one year previous, and it shall be unlawful for any child to attend school, or for any teacher to allow such child within any school house unless so vaccinated, or showing proper certificate that it has been vaccinated, such teacher shall make report of the number of children whom they have caused to be vaccinated and those who have presented certificates that they have been vaccinated, to the county school superintendent at the beginning of the school year and as often thereafter as they may deem necessary, together with the report of the names of any parents who refuse to allow their children to be vaccinated, and any person who shall so refuse or neglect to have his or her children vaccinated in accordance with the law, shall be deemed guilty of a misdemeanor, and upon a report to that effect by the county superintendent, it shall be the duty of the sheriff or any constable whom he may designate, to arrest such person, and upon being convicted, he shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or imprisoned in the county jail, not exceeding one hundred days, and the fine so imposed shall go to and be a part of the school fund of the district in which such offender lives. These pro-

visions shall apply to children and parents in incorporated cities, and towns, and the duties heretofore imposed upon county school superintendents are hereby made applicable to boards of education therein.

Sec. 30. The vaccination provided for in the previous section, shall be done by the county health officer provided for by section 22 of this act, or by his assistants and under his direction, and shall be paid for by the parents of such children, when they are able to do so, but in case of their inability to pay for the same by reason of poverty, the same shall be paid for by the board of education, or school directors of the several districts out of the school fund.

Sec. 31. It shall be the duty of the board of health to make and enforce all necessary rules and regulations for the vaccination against small-pox of the adult population as well as of the children within school age, and enforce the same by proper orders, and if any adult person shall refuse or neglect to carry out any of the orders of the said board in that behalf, he shall be guilty of a misdemeanor and after conviction shall be punished as hereinbefore provided in section 24 of this act. Vaccine matter shall be provided at the cost of the county, municipal corporation, board of education, or school trustees, as hereinbefore provided for other expenses.

Sec. 32. Whenever the necessity shall appear, the said board of health, or the president thereof may authorize any board of county commissioners, city council, board of town or village trustees of any municipal corporation in the territory to constitute and proclaim a quarantine against other locations in the territory and enforce the same under such rules and regulations as are usual, requisite or necessary for the purpose of preventing the spread of contagious and infectious diseases, and notice shall be given of such quarantine with its provisions, by a publication in a newspaper published in the locality where the quarantine is to be maintained, or if none is published then in the newspaper published at the county seat of the county, and in one published at the capital of the territory, and of the time when said quarantine is instituted, against what disease, and when the same is raised, and such boards and municipal incorporations shall have power to enforce all quarantine rules and regulations by prosecution, fine, and imprisonment and to summarily punish all offenders under such reasonable rules, regulations and ordinances as they may prescribe in order to make such quarantine effective, not in conflict with this act.

Sec. 33. Chapter 17 of the Acts of 1901, be and the same is hereby repealed except so far as the provisions thereof are by this act re-enacted and all other laws and parts of laws in

conflict are hereby repealed. This act shall not be construed however as re-enacting the laws specifically repealed by said chapter 17 of the Acts of 1901. This act shall be in force and effect from and after the date of its passage.

CHAPTER 104.

AN ACT TO AMEND AN ACT OF THE 35TH LEGISLATURE ENTITLED "AN ACT GROUPING THE SEVERAL COUNTIES OF THE TERRITORY INTO DISTRICTS FOR DISTRICT ATTORNEY PURPOSES AND PROVIDING FOR THE APPOINTMENT OF DISTRICT ATTORNEYS THEREFOR," APPROVED MARCH 12, 1903. *H. B. No. 219; Approved March 19, 1903.*

CONTENTS.

Sec. 1. Section 1, chapter 46, Laws of 1903, regarding residence of district attorneys. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That an act of the 35th Legislative Assembly entitled "An Act grouping the several counties of the territory into districts for district attorney purposes and providing for the appointment of district attorneys therefor," approved March 12, 1903, be and the same is hereby amended by striking out the words "each of whom shall be a resident in some one of the counties of the district for which he is so appointed," in section 1 of said act.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 105.

AN ACT PROVIDING FOR THE ANNEXATION OF CONTIGUOUS TERRITORY TO CITIES, TOWNS AND VILLAGES. *C. B. No. 54; Approved March 19, 1903.*

CONTENTS.

Sec. 1. Petition for annexation of ocntiguous territory. City councils or boards of trustees to act upon petition.

Sec. 2. Adoption of resolution favoring annexation. Petition. Survey and plat to be filed. Question of annexation to be submitted to voters.

Sec. 3. Notice of annexation. Proclamation by mayor.

Sec. 4. Election not to be held within sixty days of city, or town election.

Sec. 5. Contiguous territory annexed. Division into wards. Rights of voters.

Sec. 6. Special election. Mayor to give notice by proclamation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Whenever a petition asking for the annexation of contiguous territory to any city, town or village shall be presented to the city council of any city, or the board of trustees of any town or village or by petition signed by a majority of the tax payers, resident in any contiguous territory sought to be annexed to such city, town or village, accompanied by a survey and a plat of the contiguous territory sought to be annexed, it shall be the duty of the city council or board of trustees of any such city, town or village, to whom said petition is presented to express by resolution or ordinance their consent or rejection, to the annexation of such contiguous territory.

Sec. 2. If the city council or board of trustees of any city, town or village, shall adopt a resolution or ordinance favoring the annexation of such contiguous territory, the petition, survey and plat, together with the resolution or ordinance adopted by such city, town or village, shall be filed in the office of the probate clerk and ex-officio recorder of the county in which such city, town or village is situated and thereupon the mayor of such city, town or village, shall within sixty days after the lodging of such petition, survey, plat and resolution or ordinance in the probate clerk's as aforesaid, publish a proclamation in some newspaper published in the city, town or village to which said contiguous territory is sought to be annexed, for a period of thirty days before the date fixed for election, fixing the date when the question as to whether said contiguous territory shall be annexed, shall be submitted to the determination of the legal voters, residents and tax payers, of the contiguous territory sought to be annexed.

The vote cast shall be returned and canvassed in the same manner and by the same officers as returns of city, town or village elections are now canvassed, and in compliance with the statutes regulating the returns and canvass of the vote cast at such elections. The ballots to be used at such elections shall be provided by the city council or board of trustees of such city, town or village, and shall have written or printed on them the words "for annexation," and "against annexation." Ballots shall be provided separately containing such words. If a majority of the ballots cast, as determined from the returns and canvass of the votes cast, shall be in favor of annexation, the said territory sought to be annexed shall at once become a part of said city, town or village, to all

intents and purposes as if originally a part of said city, town or village; otherwise such territory shall not become annexed.

Sec. 3. Thereupon the mayors of such city, town or village, shall cause to be published, in the same manner as the ordinances of such city, town or village are published, a proclamation giving notice that such contiguous territory has been annexed.

Sec. 4. The election hereinbefore provided for shall be a special election, and no such election shall be held within sixty days of the time for holding the regular city, town or village election for electing the officers of such city, town or village.

Sec. 5. The voters in such contiguous territory shall have the right to vote at the regular election next following such annexation, and it shall be the duty of the city council or board of trustees to provide by ordinance for the division of such territory into wards or for attaching the same to wards already existing in such city, town or village, to enable the voters in such annexed territory to take part in such regular election.

Sec. 6. The mayor shall give notice by proclamation of the time of holding said special election, and of the polling places selected therefor and of the judges and clerks appointed for holding the same in the same manner as in the case of the regular elections held for officers of such city, town or village.

Sec. 7. This act shall be in full force and effect from and after the date of its passage: and all laws and parts of laws in conflict herewith, are hereby repealed.

CHAPTER 106.

AN ACT TO AMEND SECTION 1 OF CHAPTER 108 OF THE SESSION LAWS OF 1901, APPROVED MARCH 21, 1901. C. S. for H. B. No. 126; Approved March 19, 1903.

CONTENTS.

Sec. 1. Section 1, chapter 108, Laws of 1901, regarding licenses by dealers in merchandise. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 1 of chapter 108 of the Session Laws of 1901, approved March 21, 1901, which section amends subdivision second of section 4141 of the Compiled Laws of

New Mexico of 1897, be and the same is hereby amended so that the said second subdivision of said section 4141 of said Compiled Laws shall read as follows: "Second. Dealers in merchandise other than liquors, whose annual sales do not exceed three thousand dollars (\$3,000.00) shall pay a license tax of five dollars (\$5.00) per annum. Dealers in merchandise other than liquors, whose annual sales exceed three thousand dollars (\$3,000.00) and do not exceed ten thousand dollars (\$10,000.00) shall pay a license tax of ten dollars (\$10.00) per annum."

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 107.

AN ACT TO CREATE COUNTY BOARDS OF HORTICULTURAL COMMISSIONS IN THE TERRITORY OF NEW MEXICO, AND TO PROMOTE THE HORTICULTURAL INTERESTS IN SAID TERRITORY. *C. B. No. 21; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. County board of horticultural commissioners. Appointment. Vacancies. Term of office.
- Sec. 2. Powers and duties of board. Proviso.
- Sec. 3. Board. To district attorney. Appoint local inspector. Powers of inspection.
- Sec. 4. Records to be kept. Report to county commissioners.
- Sec. 5. Compensation.
- Sec. 6. Removal of inspectors. Members of board failing to perform duties. Penalty. Failure to make report. Penalty.
- Sec. 7. Meetings of board. Organization. Officers to give bond. Donations.
- Sec. 8. Duties of chairman.
- Sec. 9. Duties of secretary.
- Sec. 10. Duties of treasurer.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Within twenty days after the passage of this act it shall be incumbent upon the county commissioners of each county of New Mexico, on petition of ten tax-paying citizens of said county, to select three competent persons, fruit growers, or owners of orchards, residents of such county, who shall be known as the County Board of Horticultural Commissioners. The board of county commissioners shall fill any vacancy that may occur in said board by death, resignation, or otherwise, and appoint one horticultural commissioner each year, or thereabouts, one month, or thereabouts, previous to the expiration of the term of office of any member of the said county board of horticultural com-

missioners. Said county board of horticultural commissioners shall serve for a term of three years from date of appointment, except the commissioners first appointed, one of whom shall serve for one year, one of whom for two years, and one of whom for three years from date of appointment. The commissioners first appointed shall themselves decide by lot or otherwise, who shall serve for one year, who shall serve for two years and who shall serve for three years, and shall notify the board of county commissioners of the result of their choice.

Sec. 2. It shall be the duty of the county board of horticultural commissioners in each county, whenever it shall deem it necessary, to cause an inspection to be made of any orchard, or nursery, or trees, or any fruit packing house, store-room, sales-room, or any other place in their jurisdiction, and if found infested with scale bug, codlin moth or other insect pest injurious to fruit, trees, and vines, they shall notify the owner or owners, or person or persons in charge or possession of said trees or place, aforesaid, that the same are infested with said insects, or any of them, or their eggs or larvae, and they shall require such person or persons to disinfect or destroy the same within a certain time, to be specified: *Provided*, that no spraying of trees while in bloom shall be required to be done. If within such time such disinfection or destruction has not been accomplished, the said person or persons shall be required to make application of such treatment for the purpose of destroying them as said commissioners may prescribe. Said notices may be served upon the person or persons owning or having charge or possession of such infested trees, or places, or articles as aforesaid, by any commissioner, or by any person deputed by the said commissioners for that purpose, or they may be served in the same manner as a summons in a civil action. If the owner or owners, or persons in charge or possession of any orchard, or nursery, or trees or places, or articles infested with said insects, or any of them, or their larvae or eggs, after having been notified as above to destroy the same, or make application of treatment as directed, shall fail, neglect, or refuse to do so, he or they shall be deemed guilty of maintaining a public nuisance, and any such orchards, nurseries, trees, or places, or articles thus infected shall be adjudged and the same is hereby declared a public nuisance, and may be proceeded against as such. If found guilty, the court shall direct the aforesaid county board of horticultural commissioners to abate the nuisance. The expenses thus incurred shall be a lien upon the real property of the defendant.

Sec. 3. The said county board of horticultural commis-

sioners shall have power to divide the county into districts and to appoint a local inspector for each of said districts. The board of county commissioners of each county shall issue commissions as quarantine guardians to the members of said county board of horticultural commissioners, and to the local inspectors thereof. The said quarantine guardians, local inspectors, or members of said county boards of horticultural commissioners, shall have the authority to enter into any orchard, nursery, or place or places where trees or plants are kept and offered for sale, or otherwise, or any house, store-room, sales-room, depot, or any other such place in their jurisdiction, to inspect the same, or any part thereof.

Sec. 4. It shall be the duty of said county board of horticultural commissioners to keep a record of their official doings, and to make a report to the board of county commissioners on or before the first day of October of each year, of the condition of the fruit interests in their several districts, what is being done to eradicate insect pests, also as to the disinfecting and as to quarantine against insects, pests and diseases, and as to carrying out all laws relative to the greatest good of the fruit interest. Said board of county commissioners shall incorporate so much of said report as may be of general interest in their annual report which they shall make to the governor of said territory on or before the first day of December of each year.

Sec. 5. Each member of the county board of horticultural commissioners, and each local inspector, shall be paid for each day actually engaged in the performance of his duties under this act, payable out of the county treasury of his county, such compensation as shall be determined by resolution of the board of county commissioners of the county, before entering into the discharge of his or their duties.

Sec. 6. Said county board of horticultural commissioners shall have power to remove any local inspector who shall fail to perform the duties of his office. If any member of the county board of horticultural commissioners shall fail to perform the duties of his office, as required by this act, he may be removed from office by the board of county commissioners, and the vacancy thus formed may be filled by appointment by said board of county commissioners. In addition to the annual report required by section 5 of this act, the county board of horticultural commissioners shall make a monthly report of their doings to the board of county commissioners and the board of county commissioners may withhold warrant for their salary or compensation of said members and inspectors thereof until such time as said report is made.

Sec. 7. The county board of horticultural commissioners

may receive, manage, use and hold donations and bequests for promoting the objects of its formation. It shall meet semi-annually, and as much oftener and at such places as it may deem expedient, to consult and adopt such measures as may best promote the horticultural industry of the county. It may, but without expense to the county, select and appoint competent and qualified persons to lecture in the county, for the purpose of illustrating practical horticultural topics, and imparting instruction in the methods of culture, pruning, fertilizing and also in the best methods of treating diseases of fruits and fruit trees, cleansing orchards and exterminating insect pests. The county board of horticultural commissioners, shall at their first meeting select from among themselves a chairman, a secretary and a treasurer who shall furnish bond to the county commissioners in the sum of five hundred dollars (\$500.00) for the faithful discharge of his duties.

Sec. 8. The chairman shall preside at all meetings of the board, shall countersign all checks for moneys paid out, and shall sign all contracts to which the county board of horticultural commissioners is a party: *Provided*, the same shall have been approved by the board. He shall have power to call a meeting of the board at any time he deems it necessary, whenever requested by a majority of the board, or when requested in writing by six of the resident fruit growers.

Sec. 9. The secretary shall attend all meetings of the board, and preserve records of its proceedings and all its correspondence, collect and preserve such books, pamphlets, periodicals and other documents as may be of interest to the horticulturalist, and to correspond with agricultural and horticultural societies and colleges and what other persons and bodies as he may be directed by the board. He shall also prepare such reports as are required by the board, and perform such other duties as will pertain to the office.

Sec. 10. The duties of the treasurer shall be to receive and safely keep all moneys of the board. He shall pay out the same only for bills approved by the board, and shall render a detailed account to the board before the first of October of each year, or as often as may be required by the board, showing the amount of money received by the board and paid out by him. At the expiration of his term of office he shall turn over to his successor in office all moneys, books, and papers of the board. He shall give bond in sum as provided for.

CHAPTER 108.

AN ACT PROVIDING FUNDS AND MAKING APPROPRIATIONS FOR THE 55TH AND 56TH FISCAL YEARS AND FOR OTHER PURPOSES. C. S. for H. S. for C. S. for C. B. No. 57; Law by Limitation, March 19, 1903.

CONTENTS.

- Sec. 1. Payment of interest on bonded indebtedness. Proviso.
- Sec. 2. Support and maintenance of territorial institutions. Proviso. Chapter 69, Laws of 1901, Repealed.
- Sec. 3. Charitable institutions.
- Sec. 4. Territorial purposes.
- Sec. 5. Appropriations for 55th fiscal year extended to the 56th fiscal year. Exception.
- Sec. 6. Surplus of any given fund of one year transferred to the same fund of the year following.
- Sec. 7. Beginning of fiscal year. Penitentiary current expense fund.
- Sec. 8. Pay of territorial officials. Proviso. Supreme court fund. Miscellaneous fund. Sheriffs. Public wagon road. Deficiencies. Militia.
- Sec. 9. Section 4021, Compiled Laws of 1897, regarding levy for current county expenses. Amended.
- Sec. 10. Section 1537, Compiled Laws of 1897, regarding tax levy for school purposes. Amended.
- Sec. 11. Court house repair fund.
- Sec. 12. Provision in case any legislative assembly fails to pass appropriation bill.
- Sec. 13. Temporary provisional indebtedness fund. Application of proceeds. Chapter 100, Laws of 1901, regarding Louisiana Purchase Exposition. Repealed. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. For the 55th fiscal year the following appropriations or so much thereof as may be deemed necessary are hereby made and directed to be paid for the purposes hereinafter expressed, to-wit: For the payment of interest on bonded indebtedness sixty-two thousand dollars (\$62,000.00): *Provided*, that if at any time the moneys in the interest fund are insufficient for the payment of interest coupons as they mature, it shall be the duty of the territorial treasurer to borrow temporarily a sufficient sum to complete the said payment, and for that purpose he, the said treasurer, is hereby authorized and empowered to make and negotiate the necessary loan on the best terms obtainable, and at a rate of interest not exceeding six per cent. per annum. The auditor of public accounts shall countersign any and all papers necessary for the negotiation of said loan and charge the proceeds to the treasurer, and the treasurer shall redeem such paper out of the moneys coming into the interest fund.

Sec. 2. For the support and maintenance of the New Mexico College of Agriculture and Mechanic Arts, the University

of New Mexico, the New Mexico School of Mines, the New Mexico Normal School at Silver City, the New Mexico Normal School at Las Vegas, the New Mexico Military Institute at Roswell, the New Mexico Insane Asylum at Las Vegas, the Miners' Hospital at Raton, the Institute for the Blind at Alamogordo, the Reform School to be hereafter located at the County of Taos, Rio Arriba or San Juan, the Deaf and Dumb Asylum at Santa Fe, all territorial institutions, an annual tax levy shall be made each and every year hereafter, commencing with the 55th fiscal year, to the amount of four and eighty-five hundredths (4.85) mills on the dollar, in addition to that provided for other purposes, which shall be made and collected, and the product of such levy shall be distributed as follows, to-wit:

To the New Mexico College of Agriculture and Mechanical Arts forty one-hundredths (.40) of one mill; and, for the purpose of re-paying the sum of sixty-two hundred dollars (\$6,200.00) heretofore advanced by certain citizens to said institution, and making permanent improvements in and upon said New Mexico College of Agriculture and Mechanical Arts, and the construction of buildings, etc., there is hereby appropriated the sum of twenty-five thousand dollars (\$25,000.00) out of the temporary provisional indebtedness fund herein-after created, which said amount of twenty-five thousand dollars (\$25,000.00) hereby so appropriated shall be covered into the treasury of the Territory of New Mexico to the credit of said fund out of the proceeds of the sale of any lands belonging to said institution, so soon as said lands or any part thereof may be sold.

To the University of New Mexico sixty-five one-hundredths (.65) of one mill; and for the purpose of making permanent improvements and the construction of buildings in connection with said University of New Mexico there is hereby appropriated the sum of twenty thousand dollars (\$20,000.00), out of the temporary provisional indebtedness fund herein-after created.

To the New Mexico School of Mines forty-five one-hundredths (.45) of one mill.

To the New Mexico Normal School at Silver City fifty one-hundredths (.50) of one mill.

To the New Mexico Normal School at Las Vegas fifty one-hundredths (.50) of one mill.

To the New Mexico Military Institute at Roswell forty-five one-hundredths (.45) of one mill; and, for the purpose of making permanent improvements and the construction of buildings in connection with said New Mexico Military Institute there is hereby appropriated the sum of ten thousand dollars

(\$10,000.00) out of the temporary provisionaal indebtedness fund hereinafter created, which said amount of ten thousand dollars (\$10,000.00) hereby so appropriated shall be covered into the treasury of the Territory of New Mexico to the credit of said fund out of the proceeds of the sale of any lands belonging to said institution, so soon as said lands or any part thereof may be sold.

To the New Mexico Insane Asylum at Las Vegas one and one-half (1.5) mills; and, for the purpose of making permanent improvements and the construction of buildings in connection with said New Mexico Insane Asylum there is hereby appropriated the sum of twenty-five thousand dollars (\$25,000.00) out of the temporary provisional indebtedness fund hereinafter created, which said amount of twenty-five thousand dollars (\$25,000.00) hereby so appropriated shall be covered into the treasury of the Territory of New Mexico to the credit of the said fund out of the proceeds of the sale of any lands belonging to said institution, so soon as said lands or any part thereof may be sold; and there is hereby also further appropriated all moneys now in the territorial treasury or hereafter coming into said treasury, levied and collected under the provisions of chapter 69 of the Acts of 1901, being an act providing for geological surveys in the Territory of New Mexico; and the territorial treasurer is hereby directed to transfer all such funds now in his hands to the said territorial insane asylum in addition to the sum of twenty-five thousand dollars (\$25,000.00) hereinafter appropriated for such institution, and to transfer such other funds out of the said geological survey fund so hereafter coming into his hands under the provisions of said act to said institution; and said chapter 69 of the laws of 1901 is hereby repealed in all of its parts and provisions: *Provided*, that hereafter it shall be the duty of the authorities of said insane asylum to receive all indigent insane from any part or county of the territory who are entitled to admittance in said asylum without regard to the quota now in said asylum from any particular county in said territory.

To the Miners' Hospital at Raton ten one-hundredths (.10) of one mill; and, for the purpose of making permanent improvements and the construction of buildings, etc., in connection with said Miners' Hospital there is hereby appropriated the sum of seven thousand eight hundred dollars (\$7,800.00) out of the temporary provisional indebtedness fund hereinafter created, which said amount of seven thousand eight hundred dollars (\$7,800.00) hereby so appropriated shall be covered into the treasury of the Territory of New Mexico to the credit of said fund out of the proceeds of the

sale of any lands belonging to said institution, so soon as said lands of any part thereof may be sold.

To the Institute for the Blind at Alamogordo ten one-hundredths (.10) of one mill; and, for the purpose of making permanent improvements, and the construction of buildings in connection with said Institute for the Blind there is hereby appropriated the sum of seven thousand dollars (\$7,000.00) out of the temporary provisional indebtedness fund hereinafter created, which said amount of seven thousand dollars (\$7,000.00) hereby so appropriated shall be covered into the treasury of the Territory of New Mexico to the credit of said fund out of the proceeds of the sale of any lands belonging to said institution, so soon as said lands or any part thereof may be sold.

To the Reform School to be hereafter located at the County of Taos, Rio Arriba or San Juan ten one-hundredths (.10) of one mill; and, for the purpose of making permanent improvements and the construction of buildings in connection with the said Reform School there is hereby appropriated the sum of four thousand four hundred dollars (\$4,400.00) out of the temporary provisional indebtedness fund hereinafter created, which said amount of four thousand four hundred dollars (\$4,400.00) hereby so appropriated shall be covered into the treasury of the Territory of New Mexico to the credit of the said fund out of the proceeds of the sale of any lands belonging to said institution, so soon as said lands or any part thereof may be sold.

For the Deaf and Dumb Asylum at Santa Fe ten one-hundredths (.10) of one mill: *Provided*, that no funds now on hand from the sale of lands belonging to any institution shall be covered into the treasury, and proceeds from the future sale of lands for the Miners' Hospital, Institute for the Blind and Reform School shall not be covered into the treasury until six thousand dollars (\$6,000.00) in addition to the amounts above provided shall have been paid to each of said institutions for the maintenance and equipment thereof from the future sales of lands belonging thereto: *Provided*, that the secretary and treasurer of such institutions shall receive no compensation as such secretary and treasurer out of territorial funds.

Sec. 3. That the St. Vincent's Hospital at Santa Fe, the Grant County Hospital at Silver City, the Sisters of Mercy Hospital at Silver City, the Ladies' Hospital at Deming, the Eddy County Hospital at Carlsbad, the Orphan's School at Santa Fe, the Relief Society at Las Vegas, the Sisters Hospital at Albuquerque, the Gallup Hospital, all charitable institutions, for the support and maintenance of which an an-

nual tax levy shall be levied each and every year hereafter commencing with the 55th fiscal year, to the amount of eighty-six one-hundredths (.866) of one mill on the dollar, in addition to that provided for other purposes, and shall be made and collected, and the proceeds of such levy shall be distributed as follows, to-wit:

To the St. Vincent's Hospital at Santa Fe twelve one-hundredths (.12) of one mill.

To the Grant County Hospital at Silver City six one-hundredths (.06) of one mill.

To the Sisters of Mercy Hospital at Silver City six one-hundredths (.06) of one mill.

To the Ladies' Hospital at Deming six one-hundredths (.06) of one mill.

To the Eddy County Hospital at Carlsbad six one-hundredths (.06) of one mill.

To the Relief Society of Las Vegas eight one-hundredths (.08) of one mill.

To the Sisters' Hospital at Albuquerque eight one-hundredths (.08) of one mill.

To the Orphan's School at Santa Fe eighteen one-hundredths (.18) of one mill.

To the Gallup Hospital at Gallup six one-hundredths (.06) of one mill, to be expended by the county commissioners of McKinley county.

To the Sisters of Loretto at Taos five one-hundredths (.05) of one mill to be used by them in caring for the indigent sick.

Sec. 4. For territorial purposes there shall be levied for the 55th fiscal year upon each dollar of taxable property six (6) mills on the dollar, and for each fiscal year thereafter there shall be levied upon each dollar of taxable property six (6) mills on the dollar: *Provided*, that the territorial treasurer shall distribute the cash product of the tax levy of each fiscal year in the proportion that each appropriation bears to the total appropriation.

Sec. 5. The same appropriations made for the 55th fiscal year are hereby extended to the 56th fiscal year, and the same amounts and sums of money appropriated for the 55th fiscal year are hereby appropriated for the 56th fiscal year, except the appropriations made for printing the laws and journals of the 35th legislative assembly, and the cash appropriations of the sums named and appropriated to the different territorial institutions.

Sec. 6. At the end of each fiscal year and after any appropriations and expenditures which may be required to be paid out of any particular fund or funds shall have been paid, all the surplus which shall remain in any or either one of the

particular funds shall be transferred by the territorial treasurer to the credit of the same fund for the following fiscal year.

Sec. 7. The 55th fiscal year shall end on the last day of November, 1904; and each fiscal year thereafter shall begin on the first day of December and end on the last day of November.

For the penitentiary current expense fund there shall be paid as follows:

PAY OF OFFICERS AND EMPLOYES.

One superintendent	\$2,000 00
One assistant superintendent	1,200 00
One physician	600 00
One chaplain	200 00
One yardmaster	600 00
One cell-house keeper, day	480 00
One assistant cell-house keeper	420 00
One cell-house keeper, night	480 00
One clerk and store house keeper ..	600 00
One captain, day guards	480 00
One captain, night guards	480 00
Ten day guards	3,600 00
Four night guards	1,440 00
One matron	600 00

For the relief of Felipe Armijo, wounded in discharge of duty in preventing escape of prisoners from the penitentiary, payable out of any funds now in the treasury except interest fund. 350 00

For rations, tobacco, clothing, cash for discharged convicts, rewards, fuel and lights, water service, medicines, beds and bedding, furniture and utensils, blacksmithing, repairs to building, stationery, books for convicts, tools, wagons and horses, machinery, and for all other necessary material and expenses, the amount of thirty thousand dollars (\$30,000.00), and the proceeds of the material or articles manufactured by convict labor: *Provided*, that three hundred dollars (\$300.00) of the above fund shall be used for a permanent library, one-half of such library to be in the Spanish language, for convicts; and one thousand dollars (\$1,000.00) of said fund shall be used for insurance of penitentiary buildings against fire: *Provided, further*, that the penitentiary is hereby required to furnish electric lights at cost to the capitol building and the deaf and dumb asylum, and shall also be authorized to sell electric lights in the City of Santa Fe, upon such terms as in the judgment of the superintendent of the penitentiary and the board of penitentiary commissioners are proper.

Sec. 8. Pay to the territorial officers for the 55th fiscal year:

SALARY FUND.

For the superintendent of public instruction, salary and traveling expenses	\$ 2,500 00
For clerk to superintendent of public instruction..	1,200 00
and the same amount in proportion for the 54th fiscal year, from the passage of this act to December 1st, 1903.	
For salary of district attorneys	4,000 00
For salary of solicitor general	2,000 00
For salary of territorial auditor and clerk	3,000 00
For salary of territorial treasurer and clerk.....	3,000 00
For salary of territorial librarian	600 00
For salary of secretary and clerk bureau of immigration	1,200 00
For salary and expenses penitentiary board	1,500 00
For salary of adjutant general	1,000 00
For salary and expenses judges district courts....	7,500 00
For salary clerks and deputies district courts.....	16,000 00
For salary and mileage territorial board of equalization	2,000 00
For salary of clerk of supreme court	1,200 00
For salary territorial game and fish warden	1,800 00
For salary of private secretary to the governor, which shall be payable monthly	1,500 00
For salary of governor's messenger and door-keeper, which shall be payable monthly	180 00

Provided, that each clerk of the district court shall be entitled to receive out of the sum appropriated pay at the rate of thirty-two hundred dollars (\$3,200.00) per calendar year, as full compensation for himself and deputy or deputies; and the sums of money allowed to the clerks of the district courts and judges of the district courts shall be payable quarterly:

Provided, further, that clerks of the district court shall demand and collect in advance all fees payable as clerk's fees in any court, and shall promptly turn the same over quarterly to the territorial treasurer: *Provided*, that the defendants in criminal cases shall not be required to pay advance fees: *Provided, further*, that clerks of the district courts shall hereafter require and collect in advance a fee of five dollars (\$5.00) before docketing any case filed originally in their offices, and two dollars and fifty cents (\$2.50) for docketing any case appealed from the justice of the peace court, probate court or board of county commissioners, and shall collect such fee from the plaintiff or appellant, as the case may be, when he enters his appearance in the case; and whenever such advance

fees shall have been consumed such clerks shall require an additional fee of five dollars (\$5.00) in original cases, and two dollars and fifty cents (\$2.50) in appeal cases, and shall demand and receive no further fees from either party until all such advance fees have been used and consumed. Such clerks shall be accountable to the party making such advance fees, for any unconsumed fee, and shall turn over all fees for which services have been rendered, to the territorial treasurer, as above provided: *Provided, further*, that such clerks shall only charge against such advance fees the costs created by the party advancing such fee: *Provided, further*, that no order, decree or judgment shall be entered of record until all costs are paid for, unless by direction of the court: *Provided, further*, that such clerks shall be entitled to retain all fees collected for transcripts, seals, certificates and acknowledgments.

SUPREME COURT FUND.

For printing briefs and expenses in cases brought and defended by the territory, and actual expenses incurred by the solicitor general when legally required to attend and defend cases brought by the territory in any of the district courts situate outside of the district\$200 00

For printing dockets and calendars, supreme court... , 200 00

The salary allowed to the clerk of the supreme court shall be in lieu of all per diem and fees that the said clerk would be entitled to charge against the territory; and hereafter the clerk of the supreme court shall not be entitled to make any charge whatsoever against the territory for any services rendered, but he shall be entitled to receive, out of the above appropriation, as salary and as compensation in full for all services performed for the territory as clerk of the supreme court, and out of all appropriations hereafter made, pay at the rate of twelve hundred dollars (\$1,200.00) per annum.

MISCELLANEOUS FUND.

For contingent expenses governor's office.....\$2,000 00

For postage, express, printing, blanks, publication of quarterly reports, and incidental expenses, auditor's office 700 00

For postage, express, printing blanks, publication of quarterly reports and incidental expenses, and for commission and exchange, treasurer's office 1,000 00

For the territorial library, for the purchase of books 500 00

For the territorial library, for freight, express, postage, stationery and incidental expenses 100 00

It being hereby understood that any amount which has

heretofore been appropriated and collected for or during any previous years, for the purchase of books for said library, and which may not have been expended shall still remain in force as an appropriation for said purpose, and the unexpended balance thereof shall be a part of the fund appropriated for such purchase of books, and shall be in addition to the appropriation herein named.

For expenses of the New Mexico Historical Society. \$ 500 00

For the purchase of relics, New Mexico Historical Society 500 00

For printing, postage, freight and incidental expenses of the bureau of immigration 2,000 00

For printing reports, postage and contingent expenses, superintendent of public instruction. . . . 1,500 00

One thousand dollars of which shall be paid out of the school land fund.

For printing tax books, schedules, etc 1,200 00

For printing poll books, registration books, and other necessary blanks for the election of 1904, and conveying and forwarding election returns to the seat of government, freight and expenses, which shall apply only to the 56th fiscal year. . 1,200 00

For per diem and expenses of sheriffs in conveying prisoners to the penitentiary 5,000 00

For printing weather bureau bulletins 500 00

For printing in Spanish the laws and journals of the 35th legislative assembly, the same to be delivered to and distributed by the secretary of the territory, and to be paid for upon completion and delivery to the secretary, out of the funds in the hands of the territorial treasurer. . 1,500 00

For translating the laws and journals of the 35th legislative assembly, the same to be done under the direction and control of the secretary of the territory, and to be paid for upon the certificate of the secretary certifying that the said translations have been made under his supervision and control, out of any funds in the hands of the territorial treasurer when such translations are completed; and any money not required for such appropriation for the translation of such laws and journals to remain in the territorial treasury 1,000 00

For the capitol custodian committee fund:

For employes \$3,440 00

Light 170 00

Coal 900 00

Maintenance and repairs	500 00
Insurance	1,590 00
Water	900 00

Total\$7,500 00

And there is also hereby appropriated for necessary repairs and improvements on the capitol building, to be paid at once, out of any available funds, the sum of four thousand dollars (\$4,000.00); said sum, together with the appropriation above made for the annual expenses of maintaining said capitol, to be paid out under the direction of the capitol custodian committee, upon vouchers rendered by them, and said last-mentioned appropriation of four thousand dollars (\$4,000.00) not to apply to the 56th fiscal year.

For printing reports and other pertinent matters and contingent expenses of the office of the secretary of the territory, including the secretary's report and the printing of abstracts of corporation and similar laws; also, for printing five hundred (500) copies of the Session Laws of 1899 and 1901, in English, bound together in one volume, to be sold at actual cost price.....	\$1,600 00
For Fred Higgins, sheriff of Chaves county, to reimburse him for expenses in the extradition of Frank Vaughn, as per approved account	69 00
For Fred Higgins, to reimburse him for amounts paid out for the capture and extradition of Nath Hendricks, as per approved accounts for expenses	327 00
For Fred Higgins, to reimburse him for amount paid by him to the sheriff at Carrington, North Dakota, in connection with the arrest and extradition of Nath Hendricks	500 00
For contingent expenses of the office of the superintendent of public instruction	500 00
For the relief of the citizens of Grant and Luna counties, living on the Mimbres river, on account of damage caused by recent floods, as mentioned in the governor's message, to be paid out of the territorial institutions fund, upon the warrants of the board of three citizens who shall be tax-payers, who shall be appointed by the governor of the territory, and distribution of the amount to be under the direction of said board of three so appointed	2,500 00
For mailing laws to the public press of the territory	50 00

For the relief of the citizens of Silver City, New Mexico, in improving streets and building dams or bridges where the same are necessary for the prevention of future damage by floods such as recently visited said city, the sum of five thousand dollars (\$5,000.00), payable to the order of the mayor of said city of Silver City, out of the territorial institutions fund, and said sum to be expended under the direction of the mayor and city council of Silver City.

For the building of a public wagon road between Las Vegas and Santa Fe, five thousand dollars (\$5,000.00), which said sum shall be payable to the order of the superintendent of the penitentiary.

For the purpose of defraying the expenses of the statehood committee sent to Washington, D. C., by the Republican and Democratic central committees of the Territory of New Mexico, and to be paid to the Bank of Commerce of Albuquerque, New Mexico, to take up certain obligations incurred by certain citizens of the territory for the payment of said expenses, and to be paid out of the territorial institutions fund hereinafter provided for, the sum of three thousand six hundred and eighty-two dollars and twenty-five cents (\$3,682.25):

Provided, that the publishers of all reports of the supreme court of the Territory of New Mexico, and of all statutes of this territory, are hereby required hereafter to transmit one copy of each volume thereof to each of the following parties, to-wit: To the attorney general of the United States, Washington, D. C.; to the librarian of each state and territory; to each of the judges of the United States supreme court, and five copies to the librarian of the supreme court of the United States; one copy each to the United States attorney, the solicitor general and each district attorney in this territory; one to each board of county commissioners, and to each probate judge in this territory; also, where any other state or territory will supply the librarian of this territory with two copies or more of the reports and statute laws of such state or territory, the librarian of this territory is authorized and required to supply and transmit to the librarian of such state or territory an equal number of copies of the reports and statute laws of this territory; also, the librarian is hereby authorized and required to transmit copies of the reports and statutes of this territory which have heretofore been published, in like quantity and number as above specified, to such of the parties aforesaid who have not heretofore received the same.

The sheriffs of the various counties of this territory shall only be entitled to draw mileage for one person in charge of prisoners transported to the penitentiary, and they shall only

be entitled to charge the actual expenses for the prisoners so conveyed, and shall be entitled to charge per diem at the rate of five dollars per day for each guard, and the actual cost of transportation: *Provided*, that sheriffs shall not be entitled to more than one guard for two prisoners, and one guard for every additional three prisoners: *Provided, further*, that sheriffs shall convey at one time all prisoners sentenced at the same term of court.

DEFICIENCIES.

For the purpose of paying the following deficiencies in the appropriations for the 52nd and 53rd fiscal years, the following appropriations are hereby made, to-wit:

For Deaf and Dumb Asylum at Santa Fe, for maintenance, six months of 1903	\$ 800 00
For Jose R. Lucero, sheriff of Dona Ana county, for executing death warrant	100 00
For Salome Garcia, sheriff of Union county, for executing death warrant	100 00
For A. S. Goodell, sheriff of Grant county, for executing death warrant	100 00

For transportation of convicts to the penitentiary, as per approved accounts on file:

To Alfredo Gonzales, sheriff of Lincoln county...	\$ 873 38
To Alexander Read, sheriff of Rio Arriba county...	153 85
To J. D. Chandler, sheriff of Sierra county	168 45
To Cipriano Baca, sheriff of Luna county	184 50
To C. F. Blackington, sheriff of Socorro county...	290 25
To Cleofes Romero, sheriff of San Miguel county.	59 65
To Teodoro Roybal, sheriff of Mora county	74 70
To Salome Garcia, sheriff of Union county	172 80
To Robert B. Campbell, sheriff of Colfax county...	155 70
To Marcelino Garcia, sheriff of Santa Fe county...	7 25
To T. S. Hubbell, sheriff of Bernalillo county.....	88 90
To B. L. Romero, sheriff of Guadalupe county....	150 15
To Jose R. Lucero, sheriff of Dona Ana county...	244 25
To Leonardo Martinez, for court allowance No. 486	10 80
To Louis Ilfeld, salary as penitentiary commissioner	109 73
To J. T. McLaughlin, salary as penitentiary commissioner	50 00
To C. F. Blackington, executing requisition papers.	46 35
To W. E. Martin, executing requisition papers....	117 25
To Juan J. Ortiz, Clara H. Olsen and Maggie Geimer, for transcribing election returns for statehood committee, for years 1898, 1900 and 1902	86 10

For transportation of convicts to the penitentiary, as per approved accounts on file:

To M. C. Stewart, sheriff of Eddy county	\$ 315 45
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To Fred Higgins, sheriff of Chaves county	381 50
To Fred Hunter, sheriff of Otero county	226 00
To Alfredo Gonzales, sheriff of Lincoln county ..	185 53
To James D. Hughes, public printer, for balance due for printing laws and journals of the 34th legislative assembly	655 00
And for balance due for printing tax rolls for 1902	36 75
To Fred Hunter, sheriff of Otero county, for serv- ing requisition papers	122 05
To Robert B. Campbell, sheriff of Colfax county, for serving requisition papers	196 50
For expenses of members of board of education attending meetings:	
To C. M. Light	\$ 35 25
To W. G. Tight	10 70
To M. E. Hickey	7 70
To Maggie J. Bucher	11 55
To J. Francisco Chaves, for expense clerical ser- vice, assistance, expert work on annual report and other expenses connected with office su- perintendent public instruction	2,283 40
For wild animal bounties	286 00
To J. D. Hughes, public printer, for tax assess- ment rolls and blanks, 1901 and 1902	371 23

Provided, further, that hereafter it shall be the duty of the different boards of election canvassers to cause the election returns to be sent to the seat of government to be forwarded by some express company, and upon delivery of said returns to said express company they shall take a receipt thereof and immediately forward said receipt by registered mail to the secretary of the territory: *Provided, further*, that whenever the county seat of any county from where the returns are to be forwarded, have no express company, then, and in no other case, the said boards of election canvassers shall designate one of their number a special messenger to convey said returns to the nearest express office, to be forwarded as above provided, and take a receipt therefor; and said messenger shall be allowed for his services twelve and one-half (12.5) cents per mile, for conveying said returns, for each and every mile actually and necessarily traveled from the county seat to such express office.

MILITIA FUND.

For the support of the National Guard, including transportation of arms, clothing and fuel, sta- tionery, etc.	\$ 500 00
For rent and maintenance of armories	750 00

Sec. 9. That section 4021 of the Compiled Laws of 1897

be and the same is hereby amended by striking out the words "three and one-half" in the fifth line of said section 4021, and inserting the words "five" in lieu thereof. And hereafter the boards of county commissioners of the various counties of the territory shall be authorized to levy an annual tax of not to exceed five (5) mills on the dollar upon the assessed value of all taxable property in their several counties, for current expenses.

Sec. 10. That section 1537 of the Compiled Laws of 1897 be and the same is hereby amended so as to read as follows: "That the territorial auditor shall annually, on or before the first day of May of each year, levy a tax of two (2) mills on the dollar upon all taxable property in the territory, and certify the same to the county collectors of the several counties, who shall collect the same as the other taxes are collected. The money thus received shall not be spent for any other purpose than for paying the expense of collection, which shall not exceed four per cent. of the sum thus collected, and for paying the expenses of printing necessary forms of blank reports, school laws, the salaries of the county superintendents of public instruction, the expense of their offices and paying school teachers. And when said taxes are collected, the same shall be paid by the county collectors of the various counties of the territory into the treasuries of the counties to the credit of the general school fund of each county."

Sec. 11. Hereafter the several boards of county commissioners are hereby authorized to cause to be levied and collected, annually, a special tax of not exceeding two (2) mills on the dollar for the purpose of making needed repairs on the county court houses and county jails. The product of such levy, when collected, shall be kept separate and apart by the county treasurer, in the fund to be known and called the "Court House Repair Fund," which shall not be used for any other purpose than that above provided. That the levy made by the territorial sheep sanitary board for any year shall not exceed one cent on the dollar of the assessed values of sheep.

Sec. 12. Whenever for any reason any legislative assembly of the Territory of New Mexico shall fail to pass a bill providing funds and making appropriations for the next ensuing two fiscal years, then and in that event the last previous revenue law or appropriation bill which has become a law shall continue in full force and effect, and the levies made and appropriations provided shall be the same for the successive fiscal years thereafter, except cash appropriations, with the same force and effect as if the same had been specifically re-enacted. It being the true intent and meaning of

this section that the annual interest charges and expenses of conducting territorial government and its institutions shall in no event fail by reason of any failure of a specific bill for that purpose to become a law.

Sec. 13. There is hereby established a fund, to be known as the "Temporary Provisional Indebtedness Fund," out of which said fund the cash appropriations for territorial institutions, and all other purposes, including deficiencies, which are made in this act to be paid immediately, shall be paid; and the territorial treasurer is hereby ordered and directed to transfer to such fund, for the payment of such appropriations, all the funds now in the territorial treasury or in the territorial depositories to the credit of the capitol building bond fund, the provisional indebtedness bond fund and the Louisiana Purchase Exposition fund, together with all the sums to come into his hands up to July first, 1903, by virtue of levies heretofore ordered to be made for such above enumerated funds; and no further or other levy shall be made during the year 1903, or thereafter, for the said Louisiana Purchase Exposition fund. And chapter 100 of the session laws of 1901, being an act providing for the collection, arrangement and display of the products of the Territory of New Mexico at the Louisiana Purchase Exposition, or St. Louis World's Fair of 1903, and to make an appropriation therefor, approved March 21, 1901, is hereby repealed, in all of its parts and provisions. And the territorial board of Louisiana Purchase Exposition managers of New Mexico, created and provided for by said chapter 100 of the Session Laws of 1901, shall, within thirty days after the passage of this act, or as soon thereafter as possible, meet and close up all the business of said commission, and turn over to the territorial treasurer all funds remaining in their hands, which said funds shall be by said territorial treasurer placed to the credit of said temporary provisional indebtedness fund; *Provided*, that after the payment of said cash appropriations including deficiencies, etc., out of said temporary provisional indebtedness fund, the balance on hand therein or to be paid into the same out of the sale of institutional lands for the repayment of loans as hereinbefore provided, shall be by the treasurer turned back into the capitol building bond fund and the provisional indebtedness bond fund in the proportion which said funds bear to each other at the time of the passage of this act.

Sec. 14. This act shall be in full force and effect from and after its passage.

CHAPTER 109.

AN ACT ENTITLED AN ACT TO PERMIT MERCANTINE COMPANIES AND ASSOCIATIONS TO DO BANKING IN CITIES AND TOWNS OF LESS THAN FIFTEEN HUNDRED INHABITANTS.
H. B. No. 114; Approved March 19, 1903.

CONTENTS.

- Sec. 1. Mercantile companies may transact banking business. Capital stock. Amount to be paid in. Report to secretary of the territory and probate clerk.
- Sec. 2. Any such corporation or association now existing may transact banking business. Requirements.
- Sec. 3. Reserve fund to be kept on hand.
- Sec. 4. Banking accounts to be kept separate from mercantile accounts.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter any number of persons, not less than three, may associate to establish mercantile companies and companies for trade and business, which corporation or association may in addition to the things now allowed by the laws of this territory transact a general banking business, upon the terms and conditions and subject to the liabilities now prescribed by the laws of this territory, relating to corporations and associations in towns and cities, having a population according to the last United States census, of less than fifteen hundred inhabitants, and the aggregate amount of the capital stock of such corporation or association shall not be less than thirty thousand dollars (\$30,000.00).

Any such corporation or association organized under the provisions of this act shall transact no banking business until not less than twenty thousand dollars (\$20,000.00) of its capital stock shall have been paid into the treasury of such corporation or association, and until a certificate to that effect, under the oath of its president and treasurer, stating such fact shall have been filed in the office of the secretary of the territory, and in the office of the probate clerk in the county where such corporation or association is located, nor shall such banking business be continued beyond the period of one year, unless the capital stock of such corporation or association shall have been fully paid up and a certificate stating such fact under the oath of the president and treasurer of such corporation or association shall be filed in the office of the secretary of the territory and in the office of the probate clerk aforesaid.

Sec. 2. Any such corporation or association now existing and established under the laws of the Territory of New Mexico in any city or town having a population of less than

fifteen hundred inhabitants, according to the last United States census, may avail themselves of the benefits of this law when their capital stock shall have been paid in, in accordance with this act and a certificate duly filed with the secretary of the territory as hereinbefore provided, by complying with the provisions of the general incorporation law for increasing or diminishing the capital stock of corporations as provided in section 431 of the Compiled Laws of 1897, and to amend its articles of incorporation to include the provisions of this law as provided in section 432 of the Compiled Laws of 1897: *Provided*, that its said capital stock shall in no case be less than thirty thousand dollars (\$30,000.00).

Sec. 3. Any corporation organized and existing under this act shall not be deemed to have an indebtedness exceeding its capital stock, as provided in section 429 of the Compiled Laws of 1897, by reason of any deposits that it may have in its banking department when it shall have on hand in cash and cash exchange a reserve fund of not less than twenty-five per cent. of its deposits.

Sec. 4. Any corporation or association organized and existing under the provisions of this act and doing a banking business shall keep accounts of such banking business separate and apart from its regular mercantile business, so that at all times its books show the exact standing or condition of the banking department of such corporation or association.

Sec. 5. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its passage.

CHAPTER 110.

AN ACT TO PERMIT AND AUTHORIZE A LEVY OF ONE AND ONE-HALF (1.5) MILLS FOR ROAD FUND PURPOSES. *H. B. No. 165; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. County commissioners may levy a special tax to create road fund.
Sec. 2. Special tax levy. Manner of making and collection. Purpose for which "road fund" created.
Sec. 3. Proceeds to be paid out on warrant of county commissioners.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter in any county in this territory where one hundred legal voters and regular legal tax payers of any county shall petition in writing the board of county

commissioners of any county at the regular meeting of the board of county commissioners when the regular tax levy is to be made for the various purposes of taxation in such county, demanding that a special levy be made in such county by such board of county commissioners for the purpose of creating a road fund in such county for the purpose of improving and repairing roads, purchasing supplies, lumber and material for bridges, culverts, and other improvements upon the roads and highways in such county and for the further purpose of paying the salaries and expenses of road overseers and supervisors in such county. The board of county commissioners of such county to which such petition is regularly presented may in the discretion of said board of county commissioners order a special levy of taxes in said county to be made and collected the same as other levies are made and collected in such counties of not to exceed one and one-half (1.5) mills upon the assessed valuation of such county as in their discretion they may deem proper for a county fund for road purposes.

Sec. 2. Such levy to be made and collected at the same time and in the same manner as other taxes are levied and collected for general territorial and school purposes, and when such taxes are collected they shall constitute a general road fund in such county to be used and applied by the board of county commissioners for the purpose of creating, improving, and repairing public roads and highways in such county, and for the purpose of furnishing supplies and material for the construction and repair of bridges, and culverts, buying tools, and implements, and defraying the expense and paying for the services of road overseers in their capacity as such.

Sec. 3. The proceeds of such levy constituting such road fund shall be paid out only on the order and warrants of the board of county commissioners regularly issued and such road fund shall be used and expended only for such purposes and in such manner as the board of county commissioners shall in their discretion order and authorize through the road overseers or otherwise.

Sec. 4. This act shall take effect and be in force from and after its passage.

CHAPTER 111.

AN ACT TO ENTITLE TOWNS OR VILLAGES IN THE TERRITORY OF NEW MEXICO TO CHANGE THE CHARACTER OF THEIR MUNICIPAL GOVERNMENT AND FOR OTHER PURPOSES. H. B. No. 39; Approved March 19, 1903.

CONTENTS.

Sec. 1. Procedure by which towns or villages may incorporate as cities.

Sec. 2. Establishment of boundary lines.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any incorporated town or village in the Territory of New Mexico having a population of two thousand people or more may apply through its board of trustees, to the governor of the territory, to make, issue and publish a proclamation of the fact that such town or village is entitled to and desires to become a city, which said proclamation shall be issued only after a sworn statement, filed with the governor, has been made and executed by the chairman of the board of trustees of such town or village, the assessed valuation of property within the proposed city limits, the corporate name and the boundary lines thereof, and shall be sworn to by the chairman of the board of trustees, and the proclamation of the governor shall contain the facts recited in said statement. Such proclamation shall be conclusive evidence of the facts therein recited, and shall be published in one newspaper of general circulation in the county wherein said town or village is situated, and a certified copy thereof made by the governor shall be posted in a conspicuous place within the limits of said corporation, and an affidavit of such posting shall be made by the party posting such proclamation, and at the end of five days after the posting of such proclamation, the board of trustees of such town or village, shall proceed to organize the same into a city by dividing it into wards of not less than four, and shall call an election for the election of an alderman from each ward and a mayor from the city at large, and upon the election and qualification of such aldermen and mayor, the term of office of the officers of such town or village shall expire, and thereafter such town or village shall be a city with all the powers, privileges, duties and liabilities of cities in the Territory of New Mexico.

Sec. 2. That the boundaries of such city shall not extend to exceed one mile and a half each way from the center of such city and such center shall be established by the board of trustees prior to the application for proclamation, and

there shall accompany such application to the governor a plat showing the boundaries of such proposed city and the center as established. The boundary lines of such city need not correspond with the boundary lines of the town or village, but the territorial limits of such town or village may be extended or contracted, as such board of trustees may desire, and as they may show in their statement and application to the governor for the proclamation to change such town or village to a city, and after the issue, publication and posting of such proclamation, the boundary lines therein as stated to be the boundary lines of such city shall be the boundary lines thereof, and all the territory included therein shall constitute and be known as the city designated in such proclamation and be governed as such by the officers thereof under the laws applicable thereto.

Sec. 3. This act shall take effect and be in force thirty days from and after its passage.

CHAPTER 112.

AN ACT TO AMEND SECTIONS 1, 2, 5, 9 AND 11 OF CHAPTER 66 OF THE LAWS OF NEW MEXICO OF 1899. *H. B. No. 33; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. Section 1, chapter 66, Laws of 1899, regarding the appointment by the district judge of jury commissioners. Amended.
- Sec. 2. Section 2, chapter 66, Laws of 1899, regarding selection of grand and petit jurors. Amended.
- Sec. 3. Section 5, chapter 66, Laws of 1899 regarding opening of envelopes containing names of jurors, and issuance of venire, Amended.
- Sec. 4. Section 9, chapter 66, Laws of 1899, regarding appointment of jurors to supply non-attendance or disqualification. Amended.
- Sec. 5. Section 11, chapter 66, Laws of 1899, regarding qualifications of grand and petit jurors. Amended.
- Sec. 6. Act to take effect July first, 1903. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 1 of chapter 66 is hereby amended to read as follows: "It shall be the duty of the judges of the district court in each district in this territory at every regular term that shall be holden in any county in this territory to appoint in open court three persons of honor and respectability, who shall have the qualifications of jurors, to constitute a commission to select the grand and petit jurors to serve at the next regular term of court in said county. Every person appointed as such commissioner shall, before proceeding

to the discharge of his duties, take an oath that he will faithfully and impartially discharge his duties as such commissioner and that he will keep secret the names of all persons selected as grand and petit jurors. Every such commissioner shall be disqualified to select jurors for two successive terms of court."

Sec. 2. Section 2 of said chapter 66 is hereby amended to read as follows: "It shall be the duty of such commissioners, not less than twenty days nor more than thirty days preceding the term of the court for which it shall be their duty to select grand and petit jurors as herein provided, to meet and to retire to some convenient place and there to select seventeen qualified persons to constitute a grand jury and twenty-four qualified persons to constitute a petit jury, for the next succeeding term of court in said county. Every such person shall be disqualified to serve at two successive terms of court. The names of the jurors selected by such commissioners shall be retained in separate lists as follows: The names of the persons so selected for grand jurors shall be put into a written list which shall be certified to and signed by said jury commission and sealed up securely in an envelope and delivered by them to the clerk of the district court for the district in which their selection was made, who shall write across the place of sealing the words "grand jurors," and shall sign his name thereto, and the same procedure shall be had with the list of persons so selected for petit jurors. And the same shall be filed in the office of the clerk of the court for which said juries are selected and be by said clerk safely kept until the same shall be opened as hereinafter provided."

Sec. 3. Section 5 of said chapter 66 is hereby amended to read as follows: "That the envelopes containing the names of the grand and petit jurors for the territory shall be by said clerk twenty days, and the envelopes containing the names of the grand and petit jurors for the United States shall be by said clerk immediately after they are sealed, before said term of court for which such jurors have been drawn and selected, opened in the presence of the sheriff or deputy sheriff of the county where opened and in the presence of any citizens who may wish to be present, and in case the twentieth day before the first day of the term of court shall fall on Sunday then the next Monday after said Sunday. The envelopes containing the names of the jurors shall be opened and forthwith the clerk shall issue summons in the form of venires to the sheriff of the county for the territorial jurors, and to the United States marshal for the United States jurors, returnable on such day of the term of court for which such jurors have been drawn and selected, as the judge thereof

may direct and all of the names of the grand jurors for such term shall be included in one list and summons, and all the names of the petit jurors shall be included in another."

Sec. 4. Section 9 of said chapter 66 is hereby amended to read as follows: "Where, by reason of non-attendance or disqualification of jurors, or for any cause whatever the panel of grand or petit juries shall be incomplete, in such case the judge shall appoint one person qualified under this act, who shall act with the judge of the court as a commission to draw and select a list of qualified persons for grand and petit jurors to complete the panels for the term, and the clerk shall forthwith issue summons for the persons so named, directed to the proper officer, which summons shall be served without delay. When the panels are thus filled they shall constitute the regular panels for that term of court. In case the panels or either of them shall thereafter become incomplete from any cause, or in case of talesman or special venire, for such purpose persons shall be selected as provided by the common law, or by special commissioner, at the discretion of the court."

Sec. 5. Section 11 of said chapter 66 is hereby amended to read as follows: "Every male citizen of the United States who is qualified to vote at public elections under the laws of this territory shall be qualified to serve as grand or petit jurors in any of the courts of this territory, excepting, however, the following class of persons who shall be disqualified to serve as grand or petit jurors in any of the courts of the territory: Such persons as may have been convicted of any infamous crime, all persons who are living in a state of bigamy or polygamy, professional gamblers, that is, such persons as are actually engaged in gambling as a regular occupation and who are not otherwise engaged, habitual drunkards or persons who are addicted to the excessive use of intoxicating liquors as a beverage and attorneys at law. All persons over the age of sixty years shall be excused by the court from serving as jurors, if they so request: Such persons may be excused by the court if in its judgment they are physically disqualified."

Sec. 6. This act shall take effect and be in force from and after the first day of July, 1903: *Provided, however,* that any jurors called pursuant to said chapter 66 prior to the first day of July, 1903, shall serve for the balance of the term for which they were selected.

CHAPTER 113.

AN ACT ENTITLED "AN ACT AMENDING SECTION 5 OF CHAPTER 84 OF THE SESSION LAWS OF 1901, RELATING TO THE LOCATION AND KEEPING OF BAWDY HOUSES IN CITIES AND VILLAGES IN THIS TERRITORY." *H. B. No. 179; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. Section 5, chapter 84, Laws of 1901, regarding duties of officers to prosecute violations. Amended.
- Sec. 2. Section 2, chapter 9, Laws of 1903, regarding mayors of cities and other officers. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 5 of chapter 84 of the Session Laws of 1901, be and the same is hereby amended by adding at the end of said section the following, to-wit: "And it is hereby made the duty of the district attorney of the county wherein any of the specified violations are committed to investigate as to any violations of this act and to at once file an information before the judge of the district court of such county or any justice of the peace in such county against any and all persons committing any of the offenses herein specified and to prosecute diligently all persons so offending. And any district attorney failing or neglecting to comply with the provisions of this act shall be summarily removed by the governor who shall appoint his successor."

Sec. 2. That section 2 of an act entitled "An Act in relation to mayors and other officers," being Council Substitute for Council Bill No. 44, approved February 28, 1903, be and the same is hereby amended by adding at the end of said section as follows: "*Provided*, that the provisions of this section shall not apply or in any way affect the City of Socorro, New Mexico."

Sec. 3. This act shall be in full force and effect from and after its passage, and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 114.

AN ACT RELATING TO CORPORATIONS, DOMESTIC AND FOREIGN, PRESCRIBING FEES TO BE PAID FOR FILING THEIR ARTICLES, AND FOR OTHER PURPOSES. *H. B. No. 170; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. Corporations to file certificate of incorporation. Fees per classified list.
Sec. 2. Incorporation papers to be filed with county recorder. Misdemeanor for any recorder to file incorporation papers not certified by secretary of territory.
Sec. 3. Application of fees collected by secretary of territory.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Every corporation, joint-stock company or association incorporated or consolidated by or under any general or special law of this territory, or by or under any general or special law of any foreign state or kingdom, or of any state or territory of the United States beyond the limits of this territory, shall, before doing business in this territory, file in the office of the secretary of this territory the certificate of incorporation, articles of association or charter as required by law and at the time of such filing shall pay to the secretary of the territory the following fees:

For railroad or other corporations formed for pecuniary profit, ten cents for each and every thousand dollars of capitalization, and a like fee upon each subsequent increase of capital, but in no case less than twenty-five dollars (\$25.00);

For filing any certificate of amendment to articles of incorporation other than one increasing capital stock, or any translated copy of articles or amendments, ten dollars (\$10.00);

For filing any certificate of business and agent, when required by law, five dollars (\$5.00);

For corporations organized for benevolent, charitable, educational, religious and scientific purposes, having no capital stock, one dollar (\$1.00); For filing any certificate of amendment to such articles of incorporation, one dollar (\$1.00);

For filing any certificate, instrument or document other than those specified above, one dollar (\$1.00);

Sec. 2. Every corporation, domestic or foreign, shall file with the recorder of deeds of the county in which its principal place of business in this territory is located, a copy of its articles of incorporation, of every amendment thereto and likewise any certificate designating agent and place of business in this territory, certified from the office of the secretary of the territory; and it shall be a misdemeanor for any

recorder to file or record in his office any incorporation papers or copies thereof not previously certified by the secretary of the territory.

Sec. 3. Whenever the fees collected under the provisions of this act shall be in excess of the sum of five dollars (\$5.00) for each separate filing, such excess shall be held by the secretary of the territory for the use of the territory, and shall be paid over to the territorial treasurer at the end of each quarter, beginning June 30, 1903.

Sec. 4. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and effect from and after April 1, 1903.

CHAPTER 115.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATING TO TRUST COMPANIES." *C. B. No. 131; Approved March 19, 1903.*

CONTENTS.

Sec. 1. Section 17, chapter 52, Laws of 1903, regarding term of office of boards of directors of trust companies. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 17 of an act entitled "An Act relating to trust companies," approved on the 12th day of March, A. D. 1903, be and the same is hereby amended by the enactment of the following: The directors of such corporation shall be elected for one year, unless the number thereof exceeds five, and in that case the articles of incorporation may divide them into classes as now provided by said section 17 of said act. But if the articles of incorporation do not so provide, all directors shall be elected for one year.

Sec. 2. This act shall be in force and effect from and after the date of its passage, and all acts and parts of acts in conflict therewith are hereby repealed.

CHAPTER 116.

AN ACT PROVIDING FOR SPRINKLING OF STREETS IN CITIES AND ASSESSING THE EXPENSE THEREOF AGAINST THE OWNERS OF PROPERTY ABUTTING UPON SAID STREETS. C. B. No. 92; Approved March 19, 1903.

CONTENTS.

Sec. 1. City councils may assess cost of sprinkling streets against abutting property.

Sec. 2. Amount assessed to be a lien on property.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever the city council of any city in the Territory of New Mexico shall determine that the streets within its limits, or certain streets, or parts of streets, shall be watered in whole or in part at the expense of the owners of property abutting on such streets or parts thereof, such city council shall estimate and determine the expense of watering such streets or portions of streets, and the proportion of such expense to be borne by such owners of abutting property, and the rate to be assessed against each lineal foot of frontage of such abutting property, and thereupon shall proceed to assess, and shall assess, against each lot or parcel of land so abutting upon such street or portion thereof its proportionate share of such expense according to its frontage.

Sec. 2. That the amount so assessed against each of such lots and parcels of land so abutting upon such street or part thereof, shall constitute and be a lien upon the same, and such amount shall be collected and such lien enforced in the same manner and by the same proceeding as provided by law for the enforcement of liens issued for other classes of street improvement.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 117.

AN ACT TO PREVENT INDECENT EXPOSURE. C. B. No. 135; Approved March 19, 1903.

CONTENTS.

Sec. 1. Indecent exposure of person. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That any person who shall hereafter indecently

expose his person in or upon the streets or other public places in any unincorporated village, town or city in this territory shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), or by imprisonment in the county jail not less than ten days nor more than thirty days, or by both such fine and imprisonment in the discretion of the court trying the same.

Sec. 2. This act shall be in effect from and after its passage.

CHAPTER 118.

AN ACT PROVIDING FOR THE COLLECTION, ARRANGEMENT AND DISPLAY OF THE PRODUCTS OF THE TERRITORY OF NEW MEXICO AT THE LOUISIANA PURCHASE EXPOSITION OR ST. LOUIS WORLD'S FAIR OF 1904, AND TO MAKE AN APPROPRIATION THEREFOR. *H. B. No. 192; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. Territorial Board of Louisiana Purchase Exposition Managers of New Mexico created. Appointment.
- Sec. 2. Organization. Rules and regulations. Vacancies.
- Sec. 3. Compensation of members of board. Previso.
- Secs. 4, 5, 6, and 9. Duties of board.
- Sec. 7. Appropriation.
- Sec. 8. Tax levy to be made by auditor. Treasurer authorized to make loan.
- Sec. 10. Sub-commission. County commissioners may make appropriation. *Proviso.*
- Sec. 11. Chapter 100, Laws of 1901, regarding Louisiana Purchase Exposition. Repealed. Funds raised under provisions of chapter 100, Laws of 1901, made available.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That for the purpose of exhibiting the resources, products and general development of the Territory of New Mexico at the Louisiana Purchase Exposition or St. Louis World's Fair to take place within or near the City of St. Louis, in the State of Missouri, in 1904, a commission is hereby created to be called the Territorial Board of the Louisiana Purchase Exposition Managers of New Mexico to be organized and continue its duties as hereinafter provided, said commission to consist of seven members residents of said Territory of New Mexico. The members of said territorial board shall be appointed by the governor of New Mexico within sixty days after the passage of this act.

Sec. 2. Said members shall meet within thirty days after

their appointment, and organize by the election of a president, a vice-president, a secretary and a treasurer, who shall act as aforesaid and in the absence of the president the vice-president of said board shall be the presiding officer thereof. Five members of said board constitute a quorum for the transaction of business. The said board shall have power to make rules, and regulations for its own government, and to do such other things as may be necessary and proper for carrying out these provisions of this act. Any member of said board may be removed, at any time, by the governor, for cause, and any vacancy which may occur in the membership of the board shall be filled by appointment by the governor.

Sec. 3. The members of the board created by virtue of this act shall be entitled to their actual expenses for transportation, and the sum of three dollars (\$3.00) per day for subsistence for each day necessarily absent from their homes on business of said board, but no member of said board shall receive any further compensation from said territory: *Provided*, that no member of said board shall receive any compensation for any time that he is not actually engaged in attending to the meetings or the work as prescribed in this act as being the duty of said board.

Sec. 4. The said board shall have charge of the collection and preparation of the exhibits of New Mexico for said exposition or St. Louis World's Fair and it shall communicate with the officers thereof and obtain and disseminate through New Mexico all necessary information regarding said exposition in due and ample time for the proper exhibit of said resources and products of New Mexico at said exposition.

Sec. 5. The members of said board shall have and exercise full authority in relation to the participation, the displaying and the arrangement of the exhibits of New Mexico, and the reception of its citizens, at the said Louisiana Purchase Exposition of 1904, but shall incur no expense to the Territory of New Mexico in said reception of its citizens.

Sec. 6. The said board shall make a report of its proceedings and expenditures from time to time to the governor and at any time upon written request; and such reports shall be transmitted by him to the legislative assembly of the Territory of New Mexico of 1905, together with such suggestions as he may deem important for future like exhibitions.

Sec. 7. To carry out the provisions of this act the sum of thirty thousand dollars (\$30,000.00) or so much thereof as may be necessary, is hereby appropriated, from taxes to be levied and collected for said purpose, as hereinafter provided, and the territorial treasurer is hereby directed to pay the same, from the fund to be created out of said taxes to be levied and

collected as aforesaid, on requisition of said board, signed by the president and secretary thereof, and approved by the governor, and accompanied by estimates of the expenses for the payment of which the money so drawn is to be applied.

Sec. 8. Said funds shall be called the Louisiana Purchase Exposition Fund and for the purpose of creating and establishing said fund as specified in section 7 of this act, the auditor of the territory shall cause to be levied upon all the taxable property in the territory during the 55th and 56th fiscal years, the tax of three-fifths of one mill to be certified by him each of said fiscal years to the various county commissioners as all of the territorial taxes are levied and certified, and to be collected in the same manner as other territorial taxes, the territorial treasurer is hereby authorized to make loans as now prescribed by law for other loans to the amount as authorized herein for the purpose of making this fund at once available.

Sec. 9. The said board shall make a detailed report of all its duties under this act together with all moneys expended thereunder to the governor by the fifteenth day of January, 1905, showing in detail all work done and expenditures made up to that date; and the said board shall not exist longer than March first, 1905; before February fifteenth, 1905, said board shall make a full detailed and itemized final report of all its doings and the results of its doings under this act, and of all moneys expended thereunder, which shall not in any event exceed said appropriation of thirty thousand dollars (\$30,000.00). and said board shall in no event incur any indebtedness which, together with the amount expended, shall exceed said sum of thirty thousand dollars (\$30,000.00). Copies of said reports, together with all receipts, vouchers, documents, books and records of the said board shall be filed in the office of the auditor of the territory.

Sec. 10. The said board may appoint a sub-commission of three members from the several counties of the territory which said sub-commission shall aid toward the exhibits from the Territory of New Mexico: *Provided*, that said sub-commission receive no recompense for said services. The boards of county commissioners of the several counties of the territory are hereby empowered to appropriate such sums of money as they may deem proper to assist said board of commissioners in collecting and preparing the products of such counties for exhibition at the said exposition: *Provided*, that the entire exhibit of the Territory of New Mexico including the separate exhibits of any county of the territory shall be directly under the management of the territorial commission.

Sec. 11. Chapter 100 of the Session Laws of the Territory of New Mexico of the year 1901, approved March 21, 1901, be and the same is hereby repealed. All funds now in the territorial treasury and which have been appropriated by the legislative assembly or raised by means of the provisions of the said act approved 1901, be and the same are hereby made immediately available to carry into effect the object and purposes of this act; it being hereby expressly understood and provided that a sum equivalent to the amount so made available shall be reimbursed to the treasury of the territory from the amounts produced by the levies authorized to be made by the provisions of this act.

Sec. 12. This act shall be in force and effect from and after its passage.

CHAPTER 119.

AN ACT TO HARMONIZE AND STRENGTHEN THE EXISTING SCHOOL LAWS, AND FOR OTHER PURPOSES. *S. for C. B No. 89; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. School year.
- Sec. 2. Section 11, chapter 80, Laws of 1899, regarding posting of notice of election by school directors. Amended.
- Sec. 3. Granting of third class certificates. Proviso.
- Sec. 4. Two counties may unite to hold institute. Expense.
- Sec. 5. Section 1613, Compiled Laws of 1897, regarding defraying of expenses of county institutes. Amended.
- Sec. 6. Section 5, chapter 3, Laws of 1901, regarding protection of minors and pupils in school and penalties. Amended.
- Sec. 7. Boards of school directors. To let contracts. Clerk of board to report to county superintendent, cost of material and labor. School officials prohibited from being party to contract.
- Sec. 8. Clerks in rural districts, principals or superintendents of town or city schools to make full report to county superintendent. Contents of report.
- Sec. 9. School directors to furnish itemized accounts with all vouchers.
- Sec. 10. Section 1535, Compiled Laws of 1897, regarding duties of school directors, Amended.
Section 2, chapter 27, Laws of 1901, regarding teacher's certificates, Amended.
- Sec. 11. County superintendent. When to be at country seat. To examine books of school directors. Meeting of directors.
- Sec. 12. County superintendent may reject warrants illegally issued by school directors.
- Sec. 13. School directors failing to make complete census. Penalty.
- Sec. 14. Report of county superintendent to superintendent of public instruction. Failure to report. Penalty. Failure of teachers or principals to report. Penalty.
- Sec. 15. Apportionment of school funds. County superintendents to report to probate clerk.
- Sec. 16. District superintendents. Term of office. Duties.

- Sec. 17. Third paragraph, section 1548, Compiled Laws of 1897, regarding distribution of fines. Amended.
- Sec. 18. Officials of higher educational institutions. Report to be made. Contents.
- Sec. 19. Last paragraph, section 1548, Compiled Laws of 1897, regarding county treasurers notifying county superintendents of funds. Amended.
- Sec. 20. Legal holidays defined. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter the school year governing all public schools in any district, independent district, incorporated town or city in this territory, shall commence on the first day of September and end on the last day of August of each year.

Sec. 2. Section 1532, Compiled Laws of 1897, as amended by section 11, of chapter 80, Session Acts of 1899, is hereby amended by inserting after the words "malfeasance in office" the following: "And shall be disqualified from again holding said office by appointment or otherwise for a period of one year thereafter."

Sec. 3. Third class certificates, entitling the recipient to teach for one year in the county in which granted, may be granted by the county examining boards, and it is hereby made the duty of the members of such boards to prepare the list of questions to be submitted to those applying for third class certificates, and the examination of applicants for said third grade certificates shall occur at the same time and place as examinations are held for the examination of applicants for certificates of the first and second grades: *Provided*, that those seeking third grade certificates may also be examined by said board on the last Saturday in September and October, at the discretion of the county superintendent and at no other time.

Sec. 4. Authority is hereby conferred upon the territorial board of education to authorize any two counties, wherein the conditions are such as to make it expedient to do so, to unite in holding a district county institute at such place as may be mutually agreed upon, but not more than two counties shall participate therein, and when such power is delegated to the county superintendents thereof, the expense of such institute shall be equally divided between two counties participating therein.

Sec. 5. Section 1613, Compiled Laws of 1897, referring to the fees authorized to be collected by county superintendents from persons attending the county normal institutes is hereby amended so as to provide that such fees shall not be less than one dollar (\$1.00) nor more than three dollars (\$3.00).

Sec. 6. Section 5 of chapter 3, Session Laws of 1901, entitled "An Act for the protection of minors and pupils in

schools," is hereby amended by inserting after the word "cause," in the last line a semicolon, and adding the following, viz: "And the moneys accruing from such fines shall be covered into general school fund of the county in which the offense occurs." And it is hereby made the duty of the county superintendent of schools to prosecute before justices of the peace all persons, firms or corporations violating section 4 of this act.

Sec. 7. Boards of school directors when letting a contract of public school buildings, shall require of the contractor, a good and sufficient bond, for the faithful execution of said contract. And the clerks of said boards outside of incorporated cities and towns are required to make the county superintendent from time to time as the superintendent may require an itemized statement under oath of the cost of labor and material used and work done where practicable and apparatus required and used for conducting and furnishing said building, and school directors of the latter class are further required to consult with and solicit the co-operation of county superintendents whenever it becomes necessary to purchase furniture, fixtures, etc., for the district schools and the directors and clerks of all school boards are hereby prohibited from acting as the agent for any person or firm engaged in the selling of school furniture, apparatus, etc., or to receive any commission attending the purchase of such furniture, apparatus, etc., for the use in their respective districts; and all persons identified in an official capacity with the public schools or with the higher educational institutions supported in whole or in part by the public funds of this territory are hereby prohibited from being a party directly or indirectly to any contract for which public money is to be used in connection with the operation or maintenance of such public schools or higher educational institutions.

Sec. 8. The clerks of the several rural districts, principals or superintendents of town or city schools shall, between the first day of June and the first day of July of each year, make a report to the county superintendent in writing, showing in detail the financial condition of the district, the amount of money received and from what source, including receipts from poll taxes, etc., district bonds or special levies, and the manner in which the same has been dispersed during the previous year, amount expended for repairs or improvements of school houses and grounds, whether rented or owned by the district, the value of all school property, amount of bonded indebtedness of district, status of interest fund, amounts paid for rent, fuel, etc., salaries paid teachers for

the preceding year, the number and sex of the school population and amount expended for books for indigent children under section 1555, Compiled Laws of 1897, as amended, and failure to properly prepare and forward said reports shall subject such clerk, principals or town or city superintendents to prosecution as provided in section 1535, Compiled Laws of 1897, and it is hereby made the duty of county superintendents to file information against such derelicts.

Sec. 9. School directors serving in districts outside of incorporated towns or cities are hereby required to accompany all vouchers or warrants presented for the signature of the county superintendent with itemized statements of account, and the county superintendent shall withhold his approval of all bills until such statements are provided.

Sec. 10. Section 1535, Compiled Laws of 1897, referring to duties of school directors is hereby amended by striking out the word "for" as used in the top line on page 427 of said Compiled Laws and section 2, chapter 27, second line from bottom of page 56, Session Acts of 1901, referring to teachers' certificates is hereby amended by striking out the words "and lower than ninety per cent."

Sec. 11. The county superintendent is hereby required to be in attendance at the county seat on the first Saturday in the months of August, September and October and November for the transaction of official business. He is hereby empowered to examine from time to time the records and account books of district directors outside of incorporated cities and towns and see to it that the same are properly kept, and it is hereby made obligatory upon all such directors to meet at their accustomed place within the district at least once every thirty days during the school term for the transaction of public business.

Sec. 12. The county superintendent shall investigate the legality of all accounts as to whether the same have been legally incurred and allowed, before the fixing of his signature thereto, and he may reject any warrant issued by district school directors whenever he may deem such warrant to have been illegally issued.

Sec. 13. County superintendents are hereby empowered to remove from office any school director, in districts outside of incorporated towns and cities, who shall fail or refuse to make and return a complete census of the school population within his district as required by law, and such person so removed shall not be eligible to hold said office for a period of two years thereafter.

Sec. 14. On or before the fifteenth day of August each year the county superintendent shall make out and transmit

to the territorial superintendent, on blanks the form and character of which shall be specified by the territorial superintendent, his annual report, bearing date of August first, containing such vital statistics and general information concerning the public schools as the territorial superintendent may call for, including total amounts received by the several districts and counties on account of the poll tax and fines, and county school superintendents who fail or refuse to properly prepare and file such annual report, within the time specified by law, which report shall be properly footed, complete and consistent in its footings, as required by the superintendent of public instruction, shall be chargeable with gross neglect of official duty, and may be suspended from office by the superintendent of public instruction, and, should the circumstances demand, upon presentation of the facts to the governor, he may be removed from office and his place filled by appointment until the next general election, and any principal or teacher in charge failing to make reports required of them may upon the written complaint of the county superintendent or superintendent of public instruction, filed with the directors of any public school have his salary withheld until he has made such report so required; and, in case the circumstances justify, he shall be removed as teacher by such directors and be disqualified to teach in New Mexico for at least one year thereafter.

Sec. 15. County superintendents shall quarterly, and within ten days after receiving notice that any school funds are at their demand, for apportionment to the several districts, properly make said apportionment and specifying the number of the district, the number of children of school age in each district and the amount of money apportioned thereto, and a copy of this apportionment report shall be filed within ten days thereafter in the office of the probate clerk of the county, and he shall also supply a duplicate copy thereof to any newspaper printed within the county which will give publicity to the same free of charge as a matter of general information.

Sec. 16. District superintendents in districts consisting of incorporated cities or towns, shall be employed for a term of not to exceed two years, and their duties other than now specified by law may be defined by the board of directors of such incorporated city or town.

Sec. 17. That the "third" paragraph in section 1548, Compiled Laws of 1897, be and the same is hereby amended by inserting after the words "violation of the penal laws," the following, viz: "All moneys accruing under the provisions of this section shall on or before the first Monday in January,

April, July and October in each year, be paid into the county treasury by the officer collecting the same, who shall take duplicate receipts therefor, one of which he shall file in the office of the county clerk, and all officers who fail for two consecutive terms to make such payment and file said duplicate receipts with the county clerk, or who shall have failed to make quarterly reports as now required by law, shall be subject to summary removal from office by the board of county commissioners at the next regular meeting thereafter, and shall also be liable to indictment for malfeasance in office and false swearing, and the person so indicted shall upon conviction thereof be ineligible to hold said office for the period of two years thereafter; and judges of the district court are hereby required at each term to give this section of the law in special charge to the grand jury, which body is authorized to especially inquire into and make presentment of offenses committed under this act.

Sec. 18. In addition to the duties now required by law of the governing authorities of the higher educational institutions, they are hereby required to make duplicate copies of reports, under date of June thirtieth of each year, furnished by them to the territorial executive for use in his annual report to the secretary of the interior, and a copy of said report shall be filed in the office of the superintendent of public instruction; such report shall show the date of establishment, general status and progress of such institution during the year; its physical equipment, course of study, number of pupils enrolled and the number enrolled who are not actual bona fide residents of the territory, the number of graduates for the preceding year and the total number of graduates to date, the financial condition, character and value of improvements during the year, value of all property, receipts from all sources, disbursements, and such other information as the superintendent of public instruction may require for incorporation in his annual report to the governor of the territory.

Sec. 19. The concluding paragraph in section 1548, Compiled Laws of 1897, is amended to read as follows: "County treasurers shall quarterly, on or before the third Monday in March, June, September and December in each year, notify the county superintendents of schools in their respective counties of all funds coming into their hands for public school purposes during the preceding quarter and the total amount of moneys on hand then available for public school purposes.

Sec. 20. In addition to the legal holidays designated by law, viz: "July fourth, December twenty-fifth, and January first, and all days designated by proclamation of the governor

as fast days or thanksgiving days," February twelfth, (Lincoln's birthday) and February twenty-second, (Washington's birthday), may hereafter be observed by the public schools as legal holidays: *And, provided*, any teacher or teachers in the rural districts and village schools shall have arranged beforehand a program of exercises by the pupils appropriate for the occasion for the preceding day, the directors of such district shall not deduct any moneys from teachers' salary because of their absence from active school duty on such holidays.

Sec. 21. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall be in force and take effect thirty days after its passage.

CHAPTER 120.

AN ACT TO REGULATE COUNTY INSTITUTES AND FOR OTHER PURPOSES. *H. B. No. 213; Approved 19, 1903.*

CONTENTS.

- Sec. 1. Funds set apart by county treasurers for county institutes. Disbursement.
- Sec. 2. Territorial board of education to prescribe course of study. To revoke certificates for incompetency or immorality.
- Sec. 3. Territorial board of education. Mileage. Compensation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. For the purpose of meeting the expenses of County Institutes county treasurers in counties of the first class shall set apart annually from the general school fund of their respective counties one hundred dollars (\$100.00), and in counties of the second class seventy-five dollars (\$75.00) for such purpose, and in counties of the third class fifty dollars (\$50.00) for that purpose. The money thus set apart and that collected by county superintendents as now provided by law shall be known as the County Institute Fund, and the county treasurer shall be its custodian, but he shall not receive any of it for his services as such custodian. This money shall be disbursed in accordance with the provisions of sections 1615 and 1616 of the Compiled Laws of 1897, except that all orders on this fund issued by county superintendents shall be countersigned by the conductor of such County Institutes.

Sec. 2. The territorial board of education is hereby empowered to issue a course of study for county institutes and to revoke certificates for incompetency or immorality of the holder or for any cause that should have withheld the issue of such certificates.

Sec. 3. The members of the territorial board of education shall receive ten cents per mile for attending each meeting of said board, counting one way from their place of residence to its place of meeting, and two dollars (\$2.00) for each and every day said board is in session. This mileage and per diem shall be paid to the members of said board of education by the territorial treasurer upon the order of the territorial auditor out of the funds arising from the rental of the common school lands of the territory.

Sec. 4. All laws and parts of laws in conflict herewith are hereby repealed and this act shall take effect thirty days after its passage.

CHAPTER 121.

AN ACT TO AMEND SECTION 223 OF THE COMPILED LAWS OF 1897. *H. B. No. 216; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. Section 223, Compiled Laws of 1897, regarding power of cattle sanitary board to sell cattle. Amended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 223 of the Compiled Laws of 1897 be and is hereby amended by adding after the word "cattle" in the second line of said section the following words, to-wit: "horses, mules and asses."

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 122.

AN ACT TO SIMPLIFY THE LAWS RELATING TO DEPOSITIONS. *H. B. No. 203; Approved March 19, 1903.*

CONTENTS.

- Sec. 1. Section 3041, Compiled Laws of 1897, regarding commission for taking interrogatories. Amended.
- Sec. 2. Courts to construe laws liberally.
- Sec. 3. Section 3043, Compiled Laws of 1897, regarding duty of officer in taking interrogatories. Amended.
- Sec. 4. Section 7, chapter 82, Laws of 1901, regarding taking of depositions on interrogatories. Amended.
- Sec. 5. Failure of party, after notice of time and place, to be present at taking of deposition. Objections based on laws of evidence.

Sec. 6. Objection to deposition after return to court. To be in writing. Copy to be served on opposite party.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the first three lines of section 3041 of the Compiled Laws of 1897 are amended so as to read as follows: "The commission shall be addressed on its face and on the envelope conveying the same to any one or more of the following officers, at his or their place of business or residence, the street number whereof shall be stated in the commission and on the said envelope, if known, and if not known the applicant shall make affidavit to that effect personally or by attorney or agent, which affidavit shall be filed with the clerk of the proper court before the commission issues, to-wit:."

Sec. 2. That substantial compliance with the laws concerning the commission, and the precedent and subsequent proceedings, relative thereto, liberally to be construed by the courts, is sufficient.

Sec. 3. That section 3043 of the Compiled Laws of 1897 is hereby amended by adding at the end thereof the following: "But it shall be a satisfactory compliance herewith if the certificate of the notary public or other officer who took the deposition shows that the witness was sworn as to the truth of his answers either before they were given or at the time that his signature was appended to them."

Sec. 4. That section 7 of chapter 82 of the Session Laws of 1901 is hereby amended by the addition thereto of the following: "Provided, that the notary public or other officer empowered to take the deposition may adjourn or postpone the taking of the testimony for reasons which appear sufficient to him in furtherance of justice or the production of the evidence, but it shall be at the cost of the party proposing the witness, unless the party giving the notice fails to be present at the time originally set for the taking of the deposition at the place named for the taking, among other proper causes of adjournment or postponement being the absence of the witness. If the cause be the absence of the witness, unless for good reason shown, the officer shall issue a subpoena for him under his hand and official seal, if he have an official seal, and set a new date for the hearing, at the same place as was originally fixed, and if either of the parties interested in the deposition is present at the time when the occasion for the adjournment or postponement arose, the new date shall be made as convenient to them as possible; otherwise the officer shall fix a date in his discretion.

Sec. 5. If a party gives notice that he desires to be present at the taking of a deposition, as now provided by law, and

fails to attend, after notice of the time and place, the deposition shall be taken *ex parte*, and when the deposition is offered at the trial it shall be open only to objections based on the laws of evidence.

Sec. 6. When any deposition is returned to the proper office by the officer who took the same, the clerk shall forthwith notify the respective parties interested therein, by writing, that the same has been returned, and within ten days thereafter any party desiring to object to the form thereof, the manner of taking, the return of the execution, or to raise any jurisdictional question affecting the same, shall do so specifically in writing, and serve a copy of the objections on the opposite party, otherwise he will be deemed to have waived the objections which might have been raised in time.

Sec. 7. This act shall be in full force and effect from and after its passage and shall apply to commissions heretofore issued in causes still pending, and all acts and parts of acts in conflict herewith are hereby repealed.

JOINT RESOLUTIONS.

JOINT RESOLUTION 1.

EXTENDING VOTE OF THANKS TO SENATORS OF CONGRESS OF THE UNITED STATES WHO HAVE SUPPORTED OMNIBUS STATEHOOD BILL. *C. J. R. No. 2; Approved January 22, 1903.*

Be it resolved by the Council and House of Representatives of the 35th Legislative Assembly of the Territory of New Mexico:

That the thanks of the people of the Territory of New Mexico, through the 35th legislative assembly, are hereby extended to all those senators who have by their voices, votes and influence assisted thus far in our request for statehood, as contained in H. R. 12,543, commonly known as the omnibus statehood bill; and we earnestly pray their continued assistance in securing for us our rights as American citizens.

And it is further resolved, that the president of the council and the speaker of the house of representatives be directed to telegraph a copy of this joint resolution to the president pro tem of the senate of the United States, and that the chief clerk of the council be directed to have these resolutions printed and a copy thereof transmitted to each member of the senate of the United States.

JOINT RESOLUTION 2.

EXTENDING VOTE OF THANKS TO HON. BERNARD S. RODEY. *C. J. R. No. 3; Approved January 22, 1903.*

Be it resolved by the Legislative Assembly of the Territory of New Mexico:

That the thanks of the people of the Territory of New Mexico, through their legislative representatives, be and the same are hereby extended to the Honorable Bernard S. Rodey, our delegate in congress, for the energetic, earnest and able services rendered by him before the congress of the United States in advocating the admission of New Mexico into the Union as a state, and that he is hereby assured of

the hearty approval and appreciation of the people of this territory on account thereof.

Resolved, further, that a certified copy of this resolution, signed by the president of the council and the speaker of the house of representatives be forwarded to the Honorable Bernard S. Rodey, and that in addition thereto the same be telegraphed thereby to him.

JOINT RESOLUTION 3.

PROVIDING FOR THE PAYMENT OF EMPLOYES AND CONTINGENT EXPENSES OF THE LEGISLATURE. C. J. R. No. 6
Passed over Veto; January 30, 1903.

Be it resolved by the Council and the House of Representatives of the 35th Legislative Assembly of the Territory of New Mexico:

That the sum of two thousand four hundred and eighty-five dollars (\$2,485.00) is hereby appropriated to pay the salaries of interpreters, translators and contingent expenses of the council of said legislative assembly; and the additional sum of two thousand three hundred and thirty-nine dollars (\$2,339.00) to pay the salaries of interpreters, translators and contingent expenses of the house of representatives of the legislative assembly.

That upon presentation of this resolution to the auditor of the Territory of New Mexico, the said auditor shall draw his warrants, against the territorial treasurer, in favor of J. Francisco Chaves, president of the council of said legislative assembly, for the sum of two thousand four hundred and eighty-five dollars (\$2,485.00), and in favor of Nestor Montoya, speaker of the house of representatives, for the sum of two thousand three hundred and thirty-nine dollars (\$2,339.00), respectively; and said treasurer hereby is directed and ordered to pay the same out of any funds in the territorial treasury at the time of the presentation of said warrants, at his discretion, except funds in his hands for the payment of interest on the territorial debt.

That the said sums of two thousand four hundred and eighty-five dollars (\$2,485.00) and two thousand three hundred and thirty-nine dollars (\$2,339.00), shall be hereafter paid out as may be directed by said 35th legislative assembly of the Territory of New Mexico.

JOINT RESOLUTION 4.

TO PROVIDE THE MEMBERS OF THE LEGISLATURE WITH COPIES OF THE COMPILED LAWS OF 1897, AND ALSO WITH COPIES OF ALL LAWS WHICH HAVE BEEN PASSED AFTER THAT DATE. *H. J. R No. 2; Approved February 11, 1903.*

Be it resolved by the House of Representatives and Council of the Legislative Assembly of the Territory of New Mexico:

That the librarian of the territory is hereby ordered and authorized to provide the members of the present legislative assembly who so desire, with copies of the Compiled Laws of 1897, and with the copies of all the laws which have passed after that date, and have become laws, and that said librarian be given credit for same.

JOINT RESOLUTION 5.

DEFICIENCY APPROPRIATION PROVIDING PAYMENT FOR THE PRINTING AND DISTRIBUTION OF REPORT OF SUPERINTENDENT OF PUBLIC INSTRUCTION FOR THE YEAR 1902. *C. J. R. No. 5; Approved February 11, 1903.*

Be it resolved by the Council and House of Representatives of the 35th Legislative Assembly: That,

Whereas, three thousand copies of the report of the superintendent of public instruction were printed and distributed during the past year throughout the territory and the states of the Union, at the earnest request of the board of education of the territory, although there were no funds available to cover the expense of such printing and distribution, but the necessity therefor was so great and important for the educational interests of the territory, that they deemed the expense incurred an absolute necessity to be provided for by this legislative assembly; and,

Whereas, the governor of the territory in his message to this legislative assembly has earnestly recommended that we at once make provision for the payment of the expense connected with such printing and distribution of the report of the superintendent of public instruction:

Now, therefore, be it resolved, that the superintendent of public instruction is hereby directed to present the approved bills for such printing and distribution to the territorial auditor who thereupon is instructed to draw his warrant against any funds in the territorial treasury, except such as are reserved for the payment of interest on the public debt,

in payment of such account in the sum of eleven hundred and sixty-five dollars and fifty cents (\$1,165.50).

JOINT RESOLUTION 6.

PROVIDING FOR THE PAYMENT OF EMPLOYES AND CONTINGENT EXPENSES OF THE LEGISLATURE. *Conference S. for C. S. for C. R. No. 9; Passed over Veto February 13. 1903.*

Be it resolved by the Council and House of Representatives of the 35th Legislative Assembly of the Territory of New Mexico:

That the sum of eleven hundred and ninety-five dollars (\$1,195.00) be and the same is hereby appropriated to pay the salaries of interpreters, translators and contingent expenses of the council of said legislative assembly.

And that the sum of two thousand two hundred dollars (\$2,200.00) be and the same is hereby appropriated to pay the salaries of interpreters, translators and contingent expenses of the house of representatives of the 35th legislative assembly of the Territory of New Mexico.

That upon presentation of this resolution to the auditor of the Territory of New Mexico, the said auditor shall draw his warrant against the territorial treasurer in favor of J. Francisco Chaves, president of the council of said legislative assembly, for the sum of eleven hundred and ninety-five dollars (\$1,195.00), and in favor of Nestor Montoya, speaker of the house of representatives of the 35th legislative assembly, for the sum of two thousand two hundred dollars (\$2,200.00); and said treasurer hereby is directed and ordered to pay the same out of any funds in the territorial treasury at the time of the presentation of the said warrant, at his discretion, except funds in his hands for the payment of interest on the territorial debt: *Provided*, that no amount herein appropriated shall be deducted from any funds which will in any way decrease the appropriation allowed the penitentiary; and the territorial treasurer is hereby directed to reimburse the penitentiary fund any amounts that he may have failed to apportion to such penitentiary by reason of any appropriation heretofore or hereafter made.

That the said sums of eleven hundred and ninety-five dollars (\$1,195.00) and two thousand two hundred dollars (\$2,200.00) shall be hereafter paid out as may be directed by the said 35th legislative assembly of the Territory of New Mexico.

JOINT RESOLUTION 7.

PROVIDING FOR THE PRINTING OF BILLS, RULES, REPORTS, ETC., IN SPANISH. *C. S. for C. J. R. No. 4; Approved February 24, 1903.*

Be it resolved by the Council and House of Representatives of the 35th Legislative Assembly of the Territory of New Mexico:

That there shall be printed in the Spanish language such bills, rules, reports, documents, and all other matter, as may be ordered by this legislative assembly.

That the cost of the printing and all other printing in the Spanish language that shall be ordered by the 35th legislative assembly shall be paid for out of any funds in the hands of the territorial treasurer, except such funds as are for the payment of interest on the territorial debt; and the auditor is hereby instructed to so draw his warrants in payment of such bills as are incurred under this resolution upon completion and delivery of the work and the auditing of the accounts therefor as herein provided.

That the president of the legislative council and the speaker of the house of representatives respectively be and they are hereby directed to appoint a committee to consist of three members of each of their respective bodies, which said committee shall meet and employ and fix the compensation of some suitable person to translate the documents and matters directed and ordered to be translated by joint resolution of the legislative assembly, and also to pass upon and audit the accounts of the printer for all such printing so ordered.

That the cost of translating and printing the aforesaid documents, etc., shall be paid out of any fund directed in the resolution providing for the pay of the same; and the printer is hereby directed to present his bills to the chief clerks of the respective houses of this legislative assembly for the printing of the auditor's and treasurer's reports heretofore printed, and the said printer is further directed to present his bill for the printing of five hundred copies of the report of the territorial secretary to the same parties, who shall transmit said bills to the committees herein provided to be appointed when the same are appointed.

JOINT RESOLUTION 8.

WITH REFERENCE TO INSPECTION BY HOUSE COMMITTEE OF THE COLLEGE OF AGRICULTURE AND MECHANIC ARTS AT MESILLA PARK AND THE MILITARY INSTITUTE AT ROSWELL. *H. J. R. No. 9; Approved February 26, 1903.*

Whereas, it is the desire of the faculty, the regents and the friends of the Military Institute at Roswell, and of the College of Agriculture and Mechanic Arts at Mesilla Park, that these meritorious educational institutions be inspected by legislative committees of the 35th legislative assembly; therefore,

Be it resolved that the speaker of this house of representatives be requested to appoint committees to inspect and report upon the conditions of these institutions, these committees to enter upon and discharge their duties at once and report the result of their observations to the honorable house of representatives at their earliest convenience.

JOINT RESOLUTION 9.

PROVIDING FOR THE PAYMENT OF EMPLOYES AND CONTINGENT EXPENSES OF THE LEGISLATURE FOR SECOND TWENTY DAYS. *H. J. R. No. 7; Passed over Veto, February 26, 1903.*

Be it resolved by the House of Representatives and the Council of the 35th Legislative Assembly of the Territory of New Mexico

That the sum of forty-six hundred and forty dollars (\$4,640.00) be and the same is hereby appropriated to pay the salaries of interpreters, translators and contingent expense of the house of representatives of the 35th legislative assembly of the Territory of New Mexico.

That the sum of twenty-three hundred and fifty dollars (\$2,350.00) be and the same is hereby appropriated to pay salaries of interpreters, translators and contingent expense of the council of the 35th legislative assembly of the Territory of New Mexico.

That upon presentation of this resolution to the auditor of the Territory of New Mexico, the said auditor shall draw his warrant against the territorial treasurer in favor of Nestor Montoya, speaker of the house of representatives of the 35th legislative assembly for the sum of forty-six hundred and forty dollars (\$4,640.00) and in favor of J. Francisco Chaves, president of the council of said legislative assembly for the

sum of twenty-three hundred and fifty dollars (\$2,350.00), and said treasurer is hereby directed and ordered to pay the same out of any funds in the territorial treasury at the time of the presentation of said warrant, at his discretion, except funds in his hands for the payment of interest on the territorial bonded debt: *Provided*, that no amount herein appropriated shall be deducted from any funds which will in any way decrease the appropriation allowed the penitentiary.

That the said sum of forty-six hundred and forty dollars (\$4,640.00) and twenty-three hundred and fifty dollars (\$2,350.00) shall hereafter be paid out as may be directed by the said 35th legislative assembly of the Territory of New Mexico.

JOINT RESOLUTION 10.

TO SECURE PUBLICITY THROUGH THE PUBLIC PRESS OF THE PROCEEDINGS OF THE 35TH LEGISLATIVE ASSEMBLY. C. J. R. No. 7; *Approved February 28, 1903.*

Be it resolved by the Legislative Assembly of the Territory of New Mexico:

That the secretary of the Territory of New Mexico be and he hereby is directed to mail to each newspaper printed and published in the Territory of New Mexico a copy of each bill and resolution introduced and printed in either branch of this legislative assembly as speedily as practicable after receiving the same from the public printer, and that the cost thereof be reported by the secretary at the end of the present session of this legislative assembly and an appropriation be made to cover the same.

JOINT RESOLUTION 11.

AN ACT AUTHORIZING NECESSARY CORRECTIONS IN THE ENGROSSED AND THE PRINTED COPIES OF BILLS, RESOLUTIONS, ETC. C. J. R. No. 11 *Approved February 28, 1903.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter the committee on enrolled and engrossed bills of the branch of the legislative assembly of this territory in which any bill, resolution, etc., shall originate, shall have authority to make such corrections in the enrolled and engrossed copy thereof as shall be necessary to rectify any evident clerical error in the original from which such copy

shall have been made, such corrections to be reported by the committee at the time when the report upon the bill, resolution, etc., is made.

Sec. 2. Hereafter the secretary of the territory shall have authority to make such corrections in the printed copy of the Session Laws of the legislative assembly as shall be necessary to rectify any evident clerical error in the enrolled and engrossed copy from which such printed copy shall have been made or as shall be necessary to secure uniformity in the publication of such laws.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after its passage.

JOINT RESOLUTION 12.

PROVIDING FOR THE PRINTING OF THE GOVERNOR'S MESSAGE IN BOTH ENGLISH AND SPANISH *A. C. J. R. No. 1; Approved March 10, 1903.*

Be it resolved by the Council and the House of Representatives of the 35th Legislative Assembly

That one thousand copies in English and one thousand copies in Spanish of the governor's message with all accompanying reports and exhibits be printed for the use of the governor and the two bodies of this legislative assembly. And that the message, without the attached exhibits, shall be included in the printed copies of the journals of the two bodies, when printed. That the territorial auditor shall draw his warrant in payment of the copies printed in Spanish, upon any funds in the hands of the territorial treasurer, except funds in his hands for the payment of interest on the territorial indebtedness, upon completion and delivery of the same; the English copies to be paid for by the United States. That the printing and distribution of such message be under the direction of the secretary of the territory, and that payment therefor be made upon bills audited and approved by him.

JOINT RESOLUTION 13.

FORMALLY ACCEPTING THE TENDER OF OXFORD UNIVERSITY SCHOLARSHIPS BY THE LATE CECIL JOHN RHODES. *C. J. R. No. 8; Approved March 12, 1903.*

Resolved: By the Council of the 35th Legislative Assembly, the house concurring, that,

Whereas: Under the provisions of the will of the late

Right Honorable Cecil John Rhodes, of South Africa, relating to the establishment of scholarships at Oxford University from the British Colonies and the United States of America, New Mexico is granted two free scholarships in this ancient and honorable institution of learning, and,

Whereas: Under the testamentary dispositions of the said will it will soon become necessary to officially select and designate candidates from this territory to enjoy the high privileges which said scholarships confer: Now, therefore, be it,

Resolved: That the 35th legislative assembly hereby gratefully accepts, and by this act does formally accept, in the name of the people of New Mexico, such generous bequest with all its attendant provisions as set forth in the said will of the Right Honorable Cecil John Rhodes;

Resolved: That we regard with profound admiration that sentiment of universal brotherhood which prompted the tender of such free scholarships, and we deem it a momentous step toward fostering those cordial relations now so happily existing among English-speaking peoples in every part of the world; and be it, therefore, further,

Resolved: That the territorial board of education be and hereby is authorized and empowered to assume charge of and arrange all details respecting the examination and selection of candidates from New Mexico, for the enjoyment of said free scholarships at Oxford University, subject to the regulations promulgated by the trustees under said will or their legal representative in the United States; and it is hereby made part of the duty of the superintendent of public instruction, secretary of said board, to keep an accurate record of all such proceedings and report the same annually to the governor of the territory; and be it further,

Resolved: That an engrossed copy of this joint resolution signed by the president of the council and the speaker of the house, and duly attested by the chief clerks thereof, be forwarded, through the secretary of the territory, to the Hon. John Hay, Secretary of State, Washington, D. C., with a request that it be presented, through the courtesy of the United States embassy at London, to said trustees, and that a copy, similarly signed and attested, be forwarded to Hon. Geo. R. Parkyn, of Toronto, Canada, legal representative of said trustees for the United States.

JOINT RESOLUTION 14.

PROVIDING FOR THE PAYMENT OF EMPLOYES AND CONTINGENT EXPENSES OF THE LEGISLATURE. *H. J. R. No. 12; Passed over Veto, March 14, 1903.*

Resolved: By the House of Representatives and the Council of the Legislative Assembly of the Territory of New Mexico:

Section 1. That there is hereby appropriated for the pay of interpreters, translators and the contingent expense of the 35th legislative assembly, up to and including the 60th day of the session the following sums, to-wit:

For the house of representatives the sum of. \$4,840 00

For the legislative council the sum of 2,800 00

Sec. 2. The territorial auditor is hereby directed to draw his warrant in favor of the speaker of the house and the president of the council respectively, for the sums of money appropriated for use of each house and the territorial treasurer is directed to pay the same out of any funds in his hands except funds for the payment of interest on public debt:

Provided, that no amount herein appropriated shall be deducted from any funds which will in any way decrease the appropriation allowed the penitentiary.

JOINT RESOLUTION 15.

MAKING AN APPROPRIATION FOR THE PAYMENT OF THE EXPENSES OF THE INSTITUTIONS INSPECTION COMMITTEES. *H. J. R. No. 10; Approved March 14, 1903.*

Be it resolved by the House and Council of the 35th Legislative Assembly of the Territory of New Mexico:

That there is hereby appropriated out of the territorial salary fund the sum of two hundred and fifty-five dollars (\$255.00) to cover the expenses of the house committee named by the speaker, for the purpose of inspecting the New Mexico Military Institute at Roswell; and,

Be it further resolved that there is hereby so appropriated the sum of three hundred dollars (\$300.00) to cover the expenses of a like committee which was named for the purpose of inspecting the New Mexico Agricultural and Mechanic Arts College.

The territorial auditor is hereby directed to draw his warrant on the territorial treasurer in favor of the speaker of the house for the respective sums mentioned herein.

JOINT RESOLUTION 16.

MAKING AN APPROPRIATION TO PAY WAGES OF OFFICERS AND CLERKS FOR TEN DAYS AFTER ADJOURNMENT OF THE LEGISLATURE. *H. J. R. No. 11; Approved March 16, 1909.*

Be it resolved by the House of Representatives of the 35th Legislative Assembly of the Territory of New Mexico, the Council concurring therein:

First, that there be and is hereby appropriated the sum of five hundred dollars (\$500.00) to meet and pay the wages of the speaker of the house and the chief clerk, and additional clerks to be selected by the speaker of the house at five dollars (\$5.00) per day, for ten days after the adjournment of the legislature; and the further sum of five hundred dollars (\$500.00) to meet and pay the wages of the president of the council, the chief clerk, and additional clerks to be named by the president of the council at five dollars (\$5.00) per day, for ten days after the adjournment of the legislature;

And be it further resolved, that on presentation of this resolution to the auditor of the Territory of New Mexico, the said auditor shall draw his warrant upon the territorial treasurer in favor of the speaker of the house, Nestor Montoya, and the president of the council, J. Francisco Chaves, for the sum of five hundred dollars (\$500.00) each, respectively, and the territorial treasurer is hereby ordered and directed to pay the same out of any funds in the treasury except the interest fund at the time of the presentation of said warrant: *Provided*, that no amount herein appropriated shall be deducted from any funds which will in any way decrease the appropriation allowed the penitentiary.

And provided further, that the chief clerk of each body of said assembly shall certify the pay roll in the manner herein provided by law.

JOINT RESOLUTION 17.

PROVIDING FOR ADDITIONAL PAY FOR THE REGULAR CAPITOL EMPLOYES. *H. J. R. No. 4; Approved March 19, 1903.*

Be it resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico:

That the regular employes of the territorial capitol be and they are hereby placed on the roll of the additional employes of this body, viz: Cosme Alarid, Jose Amado Martinez, Luis Baca, Manuel Alarid, Ricardo Alarid and Fred Thayer, to be

paid each fifty (50) cents per day from the first day of this session and during the duration of the same.

That the sum of one hundred and eighty dollars (\$180.00) or so much thereof as may be needed is hereby appropriated out of any funds in the hands of the territorial treasurer, for the payment of said employes, not appropriated for the payment of interest on the territorial debt, and the territorial auditor is hereby directed to draw his warrant in behalf of the chief clerk of this house who shall pay the same to the said employes at such times as the other employes of this body are paid, and the territorial treasurer is hereby directed to pay the said warrant out of any funds in his hands except moneys for the payment of interest on the bonded debt.

JOINT MEMORIALS

JOINT MEMORIAL I.

PETITIONING SENATE OF THE UNITED STATES CONGRESS TO
PASS THE OMNIBUS STATEHOOD BILL. *C. J. M. No. 1;*
Approved January 22, 1903

To the Senate of the United States Congress:

Your memorialist, the legislative assembly of the Territory of New Mexico, most respectfully represents, that on the second day of February, A. D. 1848, by the treaty of Guadalupe Hidalgo, entered into between the United States and the Republic of Mexico, the territory embraced within the Territories of New Mexico and Arizona was ceded to the United States.

That by that treaty the government of the United States solemnly pledged the people of the ceded territory that the same would be incorporated into the union of the states, and the people thereof admitted to the enjoyment of all the rights of citizens of the United States.

That the national conventions of the republican and democratic parties have repeatedly pledged the support of their representatives in the United States senate and house of representatives to the admission of the Territories of Oklahoma, New Mexico, and Arizona, to the sisterhood of states.

That the house of representatives of the congress of the United States, has, in compliance with the treaty obligations of the United States and the political obligations of its members, passed a bill (H. R. 12,543) to enable the people of Oklahoma, New Mexico, and Arizona, to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states.

That this bill has been transmitted to and is now pending in your honorable body, without final action having been taken thereon.

That said bill embodies the hopes and aspirations of the people of New Mexico, who are well fitted to assume the form of government provided for in said bill, as is evidenced by the fact that New Mexico has made more educational progress during the last decade than any other part of the nation, and has a common school system the peer of any in the

nation; that within her boundaries there is taxable property of the value of more than two hundred million dollars; that she has a sufficient population, who have manifested their devotion and loyalty to the government of the United States by furnishing more soldiers for the defense of the government, according to population, in both the Civil and Spanish-American wars, than any state or other territory in the nation.

In the opinion of your memorialist, the people of Oklahoma and Arizona are likewise entitled to the blessings of statehood which will be secured to them by passing said bill; and because the people of the Territories of Oklahoma, New Mexico, and Arizona, have an inherent right to such admission by virtue of the principles enunciated in the Declaration of Independence, because such admission is vouchsafed them by the policy pursued by the government of the United States in the admission of nearly all the states to the nation at a time when they were less fitted to assume self government than are Oklahoma, New Mexico, and Arizona, at the present time, because a territorial form of government is intolerable and obnoxious to a free and ambitious people, because it is an incongruity under American institutions and should be maintained only so long as absolutely necessary to prepare its people for self government, because it is a denial of the right of the people to take part in the affairs of the nation which requires allegiance and support from it, and because capital has not complete confidence in such a form of government, and reluctantly lends its aid to the development of its resources.

We, therefore, most respectfully petition your honorable body to pass at the earliest date possible, consistent with the rights of and courtesies due to every one of the members of your honorable body, said bill (H. R. 12,543) now pending and popularly known as the omnibus bill. And it is hereby resolved by the legislative assembly of the Territory of New Mexico, that the chief clerks of the legislative council and house of representatives respectively, are hereby directed to transmit certified copies of this memorial to the honorable president pro tem of the senate of the congress of the United States; and it is hereby further resolved, that the president of the council and the speaker of the house of representatives be directed to telegraph a copy of this memorial to the president pro tem of the senate.

JOINT MEMORIAL 2.

REQUESTING THE LEGISLATIVE ASSEMBLIES OF ARKANSAS, CALIFORNIA, KANSAS, MISSOURI, MONTANA, NEVADA, NORTH DAKOTA, SOUTH DAKOTA, OREGON, UTAH, WASHINGTON AND WYOMING, TO PETITION CONGRESS TO PASS THE OMNIBUS STATEHOOD BILL *C. J. M. No. 2; Approved January 22, 1903.*

To the Legislative Assemblies of the States of Arkansas, California, Kansas, Missouri, Montana, Nevada, North Dakota, South Dakota, Oregon, Utah, Washington and Wyoming:

Your memorialist, the legislative assembly of the Territory of New Mexico, most respectfully represents that on the second day of February, A. D. 1848, by the treaty of Guadalupe Hidalgo, entered into between the United States and the Republic of Mexico, the territory embraced within the territories of New Mexico and Arizona was ceded to the United States.

That by that treaty the government of the United States solemnly pledged the people of the ceded territory that the same would be incorporated into the union of the states, and the people thereof admitted to the enjoyment of all the rights of citizens of the United States.

That the national conventions of the republican and democratic parties have repeatedly pledged the support of their representatives in the United States senate and house of representatives to the admission of the Territories of Oklahoma, New Mexico, and Arizona, to the sisterhood of states.

That the house of representatives of the congress of the United States has, in compliance with the treaty obligations of the United States and the political obligations of its members, passed a bill (H. R. 12,543) to enable the people of Oklahoma, New Mexico, and Arizona, to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states.

That this bill has been transmitted to and is now pending in that honorable body, without final action having been taken thereon.

That said bill embodies the hopes and aspirations of the people of New Mexico, who are well fitted to assume the form of government provided for in said bill, as is evidenced by the fact that New Mexico has made as much educational progress during the last decade as any other part of the nation, and has a common school system the peer of any in the nation; that within her boundaries there is taxable prop-

erty of the value of more than two hundred million dollars; that she has a sufficient population, who have manifested their devotion and loyalty to the government of the United States by furnishing more soldiers for the defense of the government, according to population, in both Civil and Spanish-American wars, than any state or other territory in the nation.

In the opinion of your memorialist, the people of Oklahoma and Arizona are likewise entitled to the blessings of statehood which will be secured to them by passing said bill; and because the people of the Territories of Oklahoma, New Mexico, and Arizona, have an inherent right to such admission by virtue of the principles enunciated in the Declaration of Independence, because such admission is vouchsafed them by the policy pursued by the government of the United States in the admission of nearly all the states to the nation at a time when they were less fitted to assume self-government than are Oklahoma, New Mexico, and Arizona, at the present time, because a territorial form of government is intolerable and obnoxious to a free and ambitious people, because it is an incongruity under American institutions and should be maintained only so long as absolutely necessary to prepare its people for self-government, because it is a denial of the right of the people to take part in the affairs of the nation which requires allegiance and support from it, and because capital has not complete confidence in such a form of government, and reluctantly lends its aid to the development of its resources.

We, therefore, most respectfully petition your honorable body to memorialize the senate of the congress of the United States to pass, at the earliest date possible consistent with the rights of and courtesies due to every one of the members of that body, said bill (H. R. 12,543) now pending in that body, and popularly known as the omnibus bill.

And we further respectfully petition your honorable body that you, by suitable resolutions, request your representatives in the senate of the United States congress to aid the prompt passage of said bill by their voice and vote.

And it is hereby resolved, by the legislative assembly of the Territory of New Mexico, that the president of the council and the speaker of the house of representatives of this legislative assembly be directed to transmit a certified copy of this memorial to the legislative assemblies of the states hereby memorialized; and further resolved, that the president of the council and speaker of the house of representatives be directed to telegraph a copy of this memorial to the legislative assemblies of the states hereby memorialized.

JOINT MEMORIAL 3.

TO THE PRESIDENT OF THE UNITED STATES, ASKING THAT THE
FORT MARCY ABANDONED MILITARY RESERVATION BE
GRANTED THE CITY OF SANTA FE, "FOR PUBLIC USE." *H.*
J. M. No. 1; Approved February 18, 1903.

Be it resolved that the following joint memorial be adopted
by the 35th legislative assembly of the Territory of New
Mexico:

To the President of the United States:

Your memorialist, the 35th legislative assembly of the Territory of New Mexico, submits for your consideration in behalf of the people of the territory:

That situate in the ancient and historic City of Santa Fe, cornering on the main public square or "plaza," is a tract of government land consisting of some fifteen acres, more or less, on which was established a military post by executive order of date August 28th, 1868, but which had been used for military purposes by the Spaniards, Mexican and American authorities successively for more than a century prior to that date. It was relinquished by executive order of October 1st, 1891, and by similar order of June 15th, 1895, was transferred to the interior department. The buildings on this tract of land number twenty or more, and with the exception of a small brick cottage are constructed of adobe.

Your memorialist would further respectively represent that the government of the United States now has in its employ thousands of public school teachers in Porto Rico and the Philippines, whereas during all the long years New Mexico has been a part of United States' territory absolutely nothing has been done by the parent government for the education of her children. For more than half a century this people has been left to meet and overcome the most serious obstacles which no other people within the domain of the United States have ever had to contend with in order to attain whatever of enlightenment and the spirit of progressive American citizenship they today possess; they have been compelled to depend upon their own limited resources, contending against an arid climate, in the midst of unsettled social conditions characteristic of the frontier, while at the same time carrying on a continuous warfare for more than a quarter of a century with savage Indians within their borders. Yet, notwithstanding these many drawbacks, it can be truthfully asserted that they have made good and commendable progress in the cause of education, and are well worthy the helping hand of every true American. If, half a

century ago, the United States government, as by every moral and humane right it should have done, had sent train loads of teachers into New Mexico as it has done for the Philippines and other newly acquired territories, this population would rank today with the most enlightened and industrious communities of our common country. For what they have done in the matter of school training, and what they are eagerly trying to do, these people are entitled to all credit, and are entitled, in the opinion of your memorialist, to all the aid they at this late day may be able to secure through the asking in order to go further with their school work.

Therefore, In view of these facts and the peculiar circumstances, we urge and petition that you, Mr. President, exercise your official prerogative as conferred upon your office by the act of March 3rd, 1893, (27 Stat. 593), and issue your proclamation granting to the municipal corporation of Santa Fe this property for "public use," said reservation not exceeding twenty acres in extent.

And your memorialist will ever pray.

And be it further resolved by the Legislative Assembly of the Territory of New Mexico:

That the secretary of this territory be, and he is hereby requested to certify a copy thereof forthwith to the president of the United States.

JOINT MEMORIAL 4.

PETITIONING FOR RIGHT AND AUTHORITY TO LEGALLY REFUND THE BONDED INDEBTEDNESS OF TAOS COUNTY, NEW MEXICO. C. J. M. No. 3; Approved February 28, 1903.

The 35th Legislative Assembly of the Territory of New Mexico, to the Congress of the United States:

Whereas, the bonded indebtedness of Taos county, New Mexico, amounts to forty-two thousand four hundred dollars (\$42,400.00) and the actual interest charge thereon amounts to two thousand five hundred and forty-four dollars (\$2,544.00) which is at the rate of six per cent. per annum, and the floating debt of said county amounts to about seven thousand dollars (\$7,000.00).

And whereas, the assessed valuation for taxation purposes amounts to five hundred and eighty-six thousand seven hundred and fifty-six dollars (\$586,756.00) for the year 1902, making the indebtedness of said county in excess of the congressional limitation as expressed in the Springer Act.

And whereas, the bonded indebtedness was incurred before the passage of the said Springer Act by congress.

And whereas, the said floating debt is a source of great annoyance and the cause of vexatious litigation and it is the desire of the commissioners of said Taos county and the people of said county to recognize as legal, and to pay the said floating debt, and not to repudiate any portion of any legal obligation of said county.

And whereas, it is the desire of the people of the County of Taos to refund the entire bonded indebtedness of said county into five per cent. bonds, and to refund the floating debt of said county into five per cent. bonds, and thereby place the County of Taos upon a sound financial basis and without increasing the annual interest charge.

And whereas, it is the desire of said County of Taos and the people thereof to have this bonded debt legalized beyond any question of doubt on account of the said limitation placed upon the indebtedness of counties by the Springer Act in view of the fact that it is the desire now to refund the bonded debt at a lower rate of interest, so that the value of the said refunded bonds may not be injured.

And whereas, it is the desire of the people of the County of Taos to pay all of their debts in full and the people are fully able to meet all their obligations provided they are given the right and authority to bond the floating debt of Taos county; and it is the earnest desire of the said county to reduce the interest rate upon the present bonded debt which said bonds have now reached optional maturity.

And whereas, the annual interest charge upon the entire bonded debt of said county, including the floating debt, at the rate of five per cent. would not be in excess of the present annual interest charge upon the present bonded debt at the rate of six per cent.

And whereas, the present interest charge is being promptly met and discharged by the said county upon the basis of the present taxable valuation.

And whereas, the valuation of the County of Taos is now greatly increased by the addition of many land grants to the taxable valuation, which land grants have been lately confirmed and the official surveys thereof have been approved by the court of private land claims; and the valuation of the said county is being rapidly increased by the rapid development of the mining resources of the county, and the reclamation of much arid land by irrigation enterprises.

Now, therefore, your memorialist, the 35th legislative assembly of the Territory of New Mexico, earnestly prays for the passage of an act by congress authorizing and empower-

ing the County of Taos to fund its floating debt of seven thousand dollars (\$7,000.00) and its bonded debt of forty-two thousand and four hundred dollars (\$42,400.00) six per cent. bonds into five per cent. bonds. And,

Be it resolved, by the legislative assembly of the Territory of New Mexico, that the chief clerk of the council of the legislative assembly of the territory be and he is hereby directed to certify copies hereof to the president of the senate, the speaker of the house of representatives, and to our delegate to congress, Honorable Bernard S. Rodey.

JOINT MEMORIAL 5.

REQUESTING THE PASSAGE OF H. R. 17,087 INTRODUCED IN THE HOUSE OF REPRESENTATIVES JANUARY 27TH, 1903, TO PERMIT THE ERECTION OF DRIFT FENCES ON THE PUBLIC LANDS OF NEW MEXICO AT PLACES WHERE SUCH LANDS ARE NOT IMMEDIATELY NEEDED FOR SETTLEMENT OR OTHER USES. *H. J. M. No. 2; Approved March 4, 1903.*

Memorial to the Congress of the United States:

Your memorialist, the 35th legislative assembly of the Territory of New Mexico, now in session at Santa Fe, most respectfully represents that:

Whereas, the cattle interests of New Mexico are threatened by tick-infected cattle which drift from fever-infected districts in the State of Texas across our east and south territorial lines, and,

Whereas, the said country covers a distance of over four hundred miles, which cannot be adequately protected by the cattle sanitary board of this territory, and whereas said H. R. Bill 17,087 introduced by Hon. Bernard S. Rodey, delegate to congress, will permit the cattle men to erect fences, thus preventing the invasion of fever-infected cattle into our territory from the State of Texas.

Therefore be it resolved, by the legislative assembly as the representatives of the people of the Territory of New Mexico, that we ask for, and urge upon the congress of the United States that they pass said mentioned bill.

Be it further resolved, that the secretary of the territory be, and hereby is directed to make, and transmit four copies of this memorial to our delegate in congress, one for himself and three to be transmitted by him to the chairmen of the proper committees of the senate and house of representatives.

JOINT MEMORIAL 6.

RELATING TO THE PROTECTION OF AMERICAN CITIZENS, TEMPORARILY RESIDING IN MEXICO. *H. J. M. No. 3; Approved March 9, 1903.*

To the President:

Sir: Your memorialist, the legislative assembly of the Territory of New Mexico, respectfully represents that there are a large number of American citizens, residing in the Republic of Mexico, who are engaged in the train service of the various railroad companies operating lines of railway and other occupations in that country.

That, under the peculiar laws and institutions of that republic, a person charged with any infraction of its laws is compelled to prove himself innocent, the burden of proof in any case resting upon the individual to prove his innocence rather than upon the government to prove his guilt.

That there are at present confined in the jails of Mexico a large number of American citizens whose occupation is that of railroading, who, while in the conduct and operation of locomotives and trains of cars in various parts of the republic, have been so unfortunate as to meet with accidents resulting in the death of some Mexican citizen, for the death of whom no one is criminally or otherwise liable or chargeable with blame or neglect.

That many such unfortunate trainmen have been unable to secure a trial upon the charges on which they have been incarcerated and have likewise been refused the privilege of giving bond for their appearance at any trial therefor.

That citizens of other nations, notably England, France and Germany, are always speedily released upon bond or given a trial within a reasonable length of time when charged with similar infraction of law.

Now, therefore, your memorialist, most earnestly requests that the government of the United States of America, through its state department may institute such proper proceedings or undertake the prosecution of such diplomatic relations with the government of the Mexican Republic as will speedily terminate the wrongful detention of American citizens charged with infraction of Mexican laws as in this memorial represented and prevent the recurrence thereof, thereby affording to our citizens the same protection as is given to the citizens of other governments temporarily residing in Mexico and pursuing the vocations herein stated.

And your memorialist will ever pray, and,

Be it resolved, that the chief clerk of the house of representatives of the 35th legislative assembly of the Territory of New Mexico, be, and he hereby is directed to transmit a copy of the foregoing memorial to the president of the United States.

JOINT MEMORIAL 7

REQUESTING THAT THE SECRETARY OF THE INTERIOR SEGREGATE CERTAIN LANDS SAN JUAN COUNTY. *H. J. M. No. 4; Approved March 16, 1903.*

The 35th legislative assembly of the Territory of New Mexico:

To the Honorable, the Secretary of the Interior:

Whereas, there are thousands of acres of public lands situate on the Rio Las Animas and the Rio San Juan, in the County of San Juan, in the Territory of New Mexico, which lands are of unrivalled fertility and productiveness when supplied with water for irrigation purposes, and,

Whereas, said streams of water have a never failing supply, being fed by the snow falls in the lofty ranges of the Rocky Mountains in the State of Colorado where these streams have their source, and,

Whereas, there are a number of suitable reservoir sites and more especially one very desirable site within six miles of the town of La Plata in said County of San Juan, and,

Whereas, if the government of the United States, under the act of congress, would build said reservoir and other reservoirs at suitable places in said County of San Juan, there could be thousands of acres of the public lands reclaimed and made desirable for settlement and occupation by American families in a section of the country which has the most salubrious climate and the most productive soil of any section in the world.

Now therefore, your memorialist respectfully requests and most earnestly solicits that under and pursuant to the provisions of said act which authorizes your department to make investigations, that you at the earliest possible opportunity order that an investigation of the possibilities of said sections be made and that as soon as the reservoir sites may be located that the lands there under and which can be irrigated from said reservoirs be segregated from the public domain and held for actual settlers as contemplated by the terms of the act of congress.

Be it resolved, that certified copies of this memorial be

transmitted by the governor of the Territory of New Mexico to the president of the United States and to the Honorable, the Secretary of the Interior.

JOINT MEMORIAL 8.

REQUESTING THE PASSAGE BY CONGRESS OF HOUSE BILL NO. 15369, KNOWN AS THE GOOD ROADS LAW. *H. J. M. No. 5; Approved March 17, 1903.*

Whereas, it appears that there is now pending in the congress of the United States, a measure introduced by Honorable Walter P. Brownlow in the house of representatives which seeks to establish a policy to be pursued by the United States government in reference to the public improvement of the public highways of the country, and,

Whereas, the said bill appears to be a good and wholesome measure for the establishment and maintenance of public highways in the country.

Now, therefore, your memorialist, the 35th legislative assembly of the Territory of New Mexico, respectfully requests the congress of the United States to pass said bill at its next regular session, believing that the same will be of a great and lasting benefit to the people of the country. Now, therefore,

Be it resolved by the 35th Legislative Assembly of the Territory of New Mexico.

That the foregoing memorial be and the same hereby is adopted, and that the secretary of this territory be and he is hereby requested to certify copies thereof to the president of the senate and the speaker of the house of reprsntatives of the United States, and a copy to our delegate in congress, the Honorable B. S. Rodey, and to Honorable W. P. Brownlow, at Washington, D. C.

I, J. W. Raynolds, Secretary of the Territory of New Mexico, do hereby certify that I have compared the foregoing printed copies of the Acts, Joint Resolutions and Joint Memorials of the Thirty-fifth Session of the Legislative Assembly of the Territory of New Mexico, with the enrolled and engrossed originals thereof now on file in this office, and declare them to be correct transcripts therefrom and of the whole thereof.



Given under my hand and the Great Seal of the Territory of New Mexico, at Santa Fe, the Capital, this the first day of June, A. D. 1903.

J. W. RAYNOLDS,
Secretary of New Mexico.



INDEX

Of Specific Amendments and Repeals Since Compilation of
1897. Abbreviations: Amendment, A; Repeal, R; Com-
piled Laws 1897, C. L. '97; Session Laws, L.

ACEQUAIS—	Chap.	Sec.	Yr.
Appeals, Sec. 16, C. L. '97, A.....	22	1	1901
Appraisers in constructing, Sec. 24, C. L. '97, A.....	44	3	1903
Considered corporations, Sec. 8, C. L. '97, A.....	98	1	1903
Duties of officers, Sec. 11, C. L. '97, A.....	32	3	1903
Duties of officers, Sec. 11, C. L. '97, A.....	44	1	1903
Interference with, Sec. 13, C. L. '97, A.....	44	2	1903
Labor by owners, Sec. 32, C. L. '97, A.....	44	4	1903
Management, Secs. 36, 37, 38 and 39, C. L. '97, R.....	44	5	1903
Management and control, Secs. 12, 13, 30, 31, 32, 33, 34, 35 and 36, C. L. '97, R.....	32	12	1903
Obstructing; penalty, Sec. 36, C. L. '97, A.....	80	6	1899
Officers; duty, Sec. 9, C. L. '97, A.....	32	1	1903
Qualification of voters, Sec. 10, C. L. '97, A.....	32	2	1903
ACTIONS—			
Civil; where and how commenced, Sec. 2950, C. L. '97, A..	80	16	1899
Extension of time to begin, Secs. 2937 and 2938, C. L. '97, A	63	1-2	1899
ADMINISTRATORS AND EXECUTORS—			
Administration, Secs. 1938, 1939, 1941, 1945, 1946, 1955 and 1961, C. L. '97, R.....	81	1-4	1901
Inventory; who shall make, Sec. 2023, C. L. '97, R.....	81	18	1901
Oath during contest, Sec. 1943, C. L. '97, A.....	81	2	1901
Persons not qualified to act, Sec. 16, Ch. 81, L. '01, A.....	35	1	1903
APPEALS—			
Criminal cases; effect of, Sec. 3420, C. L. '97, A.....	80	14	1899
Criminal cases; effect of, Sec. 3420, C. L. '97, A.....	93	1	1901
Criminal cases; effect of, Sec. 3420, C. L. '97, A.....	32	2	1899
Criminal cases; effect of, Ch. 32, L. '99, A.....	93	1	1901
Criminal; transcript of record, Sec. 3413, C. L. '97, A.....	80	15	1899
ASSESSMENTS—			
Street improvements, Sub-sec. 82nd, Sec. 2402, C. L. '97, R	42	9	1903
ATTACHMENT—			
Interrogatories; answer to be filed, Sec. 2708, C. L. '97, A..	80	13	1899
Interrogatories; filing with writ, Sec. 2698, C. L. '97, A....	80	12	1899
BANKING—			
Unlawful when, Sec. 254, C. L. '97, A.....	40	1	1891
BANKS—			
Savings; general provisions, Sec. 260, C. L. '97, A.....	56	1	1901
BAWDY HOUSES—			
Violations; officers to prosecute, Sec. 5, Ch. 84, L. '01, A..	113	1	1903

	Chap.	Sec.	Yr.
BERNALILLO COUNTY—			
Election of officers, Sec. 3, Ch. 27, L. '03, A.....	49	1	1903
BLANKS—			
Certain officials to furnish, Sec. 1027, C. L. '97, A.....	45	1	1899
BOARD OF PHARMACY—			
Examinations, Sec. 3721, C. L. '97, A.....	43	1	1903
Fees for registration, Sec. 3722, C. L. '97, A.....	43	1	1903
BOARD OF PUBLIC LANDS—			
Adoption of seal, Sec. 33, Ch. 74, L. '99, A.....	69	14	1901
Contingent expenses, Sec. 5, Ch. 74, L. '99, A.....	69	2	1901
Compensation, proviso, Sec. 2, Ch. 74, L. '99, R.....	69	2	1901
BOARD OF REGENTS; TERRITORIAL INSTITUTIONS—			
Power to condemn land, Sec. 3693, C. L. '97, A.....	18	6	1899
BONDS—			
Capitol rebuilding, Sec. 2, Ch. 9, L. '99, A	28	1	1899
Capitol rebuilding; sale of, Sec. 3, Ch. 9, L. '99, A	39	1	1899
County, Sec. 29, Ch. 58, L. '99, R	41	9	1901
County refunding, Sec. 15, Ch. 58, L. '99, A	44	3	1901
General refunding, Sec. 24, Ch. 58, L. '99, A.....	44	6	1901
Incorporated towns, Sec. 1, Ch. 78, L. '99, A.....	33	1	1901
New issue; form, Sec. 14, Ch. 58, L. '99, A	44	2	1901
Payment of principal and interest, Sec. 3, Ch. 78, L. '99, A.	33	2	1901
Territorial; retirement of, Sec. 12, Ch. 58, L. '99, A.....	90	11	1901
BOUNTY ON WILD ANIMALS—			
Secs. 714, 717, 763, 764, 765, 766, and 767, C. L. '97, R....	38	3	1899
Ch. 10, L. '01, A.....	80	1	1903
BRIDGES—			
Construction of, Ch. 11, L. '99, A	51	1	1901
BUILDING AND SAVINGS AND LOAN ASSOCIATIONS—			
Assessment, Sec. 1, Ch. 67, L. '01, A	68	1	1903
BUTCHERS—			
License, Sec. 92, C. L. '97, R	45	5	1901
CAPIAS—			
Secs. 2730 to 2737 inclusive, C. L. '97, R	80	5	1899
CAPITOL CUSTODIAN COMMITTEE—			
Secs. 3468, 3469, 3470, 3471 and 3472, C. L. '97, R.....	73	6	1901
CATTLE—			
Diseases of, Sec. 197, C. L. '97, A	1	1	1903
Fees for inspection of, Sec. 221, C. L. '97, R	53	4	1899
Killing by railroad companies, Sec. 241, C. L. '97, A.....	86	1	1901
Killing of, Sec. 125, C. L. '97, A	102	1	1901
Sale by cattle sanitary board, Sec. 223, C. L. '97, A.....	121	1	1903
Shipment of, Sec. 211, C. L. '97, R	53	4	1899
CATTLE SANITARY BOARD—			
Tax levy, Sec. 200, C. L. '97, A	1	2	1903
CITY OFFICERS—			
Election and term of office, Sec. 3, Ch. 9, L. '03, A.....	93	2	1903
Provisions of, Ch. 9, L. '03, Extended to all cities	36	1	1903
Socorro, Sec. 2, Ch. 9, L. '03, A	113	2	1903
Term of office, Sec. 1, Ch. 9, L. '03, A	93	1	1903
CIVIL PROCEDURE—			
Answers, Sub-sec. 39, Sec. 2685, C. L. '97, A.....	82	6	1901

	Chap.	Sec.	Yr.
Court proceedings, Sub-Sec. 172, Sec. 2685, C. L. '97, A..	75	5	1899
Executions and writs, Sub-Sec. 176, Sec. 2685, C. L. '97, A..	75	7	1899
Extraordinary writs not affected by code, Sub-Sec. 175, Sec. 2685, C. L. '97, A	75	6	1899
Extraordinary writs not affected by code, Sub-Sec. 175, Sec. 2685, C. L. '97, A	5	1	1903
COAL OIL—			
Inspection, Secs. 2640, 2641 and 2646, C. L. '97, A	12	1-4	1899
Inspection, Ch. 12, L. '99, R	64	8	1901
Inspection, Secs. 2640, 2641, 2642, 2643, 2644, 2645 and 2646, C. L. '97, R	64	8	1901
Inspection, Ch. 64, L. '01, R	3	1	1903
COMMISSION OF IRRIGATION—			
Duties, Sec. 34, Ch. 74, L. '99, A	69	15	1901
COMPILED LAWS OF 1897—			
Distribution of, Prefatory Ch., C. L. '97—portions R.....	48	4	1899
CONDEMNATION PROCEEDINGS—			
Municipal corporations, Sub-Sec. 92nd, Sec. 2402, C. L. '97, A	41	1	1903
Railroad companies, Sub-Div. 2nd, Sec. 3850, C. L. '97, A..	31	1	1903
CONVICTS—			
Reduction of sentence, Sec. 3536, C. L. '97, A	1	1	1899
Restoration to citizenship, Sec. 3541, C. L. '97, A.....	1	2	1899
CORPORATIONS—			
Balance sheet to be filed, Secs. 3 and 4, Ch. 77, L. '99, R..	20	1	1901
Fees collected; distribution, Sec. 5, Ch. 77, L. '99, A.....	20	2	1901
Fees for filing certificates, Secs. 441 and 443, C. L. '97, A..	77	..	1899
Foreign; admission, Sec. 445, C. L. '97, A	65	1	1903
Liability of, Sec. 446, C. L. '97, A.....	65	2	1903
COUNTY INDEBTEDNESS—			
Fees and salaries to be paid pro rata, Sec. 301, C. L. '97, A	36	1	1901
COUNTY INSTITUTES—			
Expenses, Sec. 1613, C. L. '97, A	119	5	1903
COUNTY OFFICERS—			
Salaries, Sub-Secs. 5, 8 and 13, Sec. 867, C. L. '97, A.....	25	1-5	1899
COUNTY SUPERINTENDENTS—			
Compensation, Ch. 34, L. '99, R	14	1	1901
CRIMINALS—			
Cannot defend criminal, Sec. 3777, C. L. '97, R.....	35	2	1899
Discharge second term after indictment, Sec. 3403, C. L. '97, R	55	2	1899
When bailable, Sec. 3409, C. L. '97, R	32	1	1899
DAMAGES—			
Fields, Secs. 145, 146, 147, 148, 149, 150 and 151, C. L. '97, R	92	1	1901
Public lands, Sec. 23, Ch. 74, L. '99, A	69	8	1901
DEATH PENALTY—			
Manner of inflicting, Sec. 1067, C. L. '97, A	76	1	1903
DEPOSITIONS—			
Notice and publication, Secs. 3053, 3054 and 3055, C. L. '97, R	5	6	1903
Perpetuating testimony; notice, Sec. 3052, C. L. '97, A....	5	5	1903
DISTRICT ATTORNEYS—			
Residence, Sec. 1, Ch. 46, L. '03, A	104	1	1903
ELECTION RETURNS—			
Forwarding; when and to whom, Sec. 1653, C. L. '97, A..	80	17	1899

	Chap.	Sec.	Yr.
Mileage in forwarding, Sec. 1657, C. L. '97, R.....	81	9	1899
Senatorial districts, Secs. 1654 and 1655, C. L. '97, R.....	48	2	1901
EMBLEMS—			
Adoption of, Sec. 1633, C. L. '97, A	59	1	1903
ESTATES—			
Division, Secs. 2030 and 2031, C. L. '97, R.....	62	9	1901
Executor's account, Sec. 2005, C. L. '97, A.....	81	25	1901
EVIDENCE—			
Disqualifications of witnesses, Sec. 3016, C. L. '97, A.....	58	1	1901
EXECUTIONS—			
Levy; notice to debtor, Sec. 3107, C. L. '97, A.....	49	1	1901
Schedule of property, Secs. 3108 and 3109, C. L. '97, R....	49	2	1901
FINES—			
Distribution of, third paragraph, Sec. 1548, C. L. '97, A....	119	17	1903
FORCIBLE ENTRY AND DETAINER—			
Action for; when, Sec. 3345, C. L. '97, A.....	32	1	1901
GAME—			
Protection of, Ch. 51, L. '99, R	48	19	1903
GEOLOGICAL SURVEY—			
Funds transferred to insane asylum, Ch. 69, L. '01, R.....	108	2	1903
GUADALUPE COUNTY—			
Organization, Secs. 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611 and 612, C. L. '97 R.....	69	1	1903
GUARDIAN—			
Appointment of, Sec. 2053, C. L. '97, A.....	5	3	1903
HEARINGS—			
Civil cases; when, Sub-Sec. 104, Sec. 2685, C. L. '97, A....	11	2	1901
HIGHWAYS—			
Maintenance of, Secs. 1831, 1832, 1833 and 1834, C. L. '97, R	40	22	1901
INDEBTEDNESS—			
Outstanding; redemption of, Sec. 11, Ch. 90, L. '01, A....	67	1	1903
INFANTS—			
Property; sale of, Sec. 2052, C. L. '97, .....A.....	5	2	1903
INHERITANCE—			
Children disinherited; when, Sec. 1477, C. L. '97, A.....	81	38	1901
INTERROGATORIES—			
Commission for taking, Sec. 3041, C. L. '97, A.....	122	1	1903
Duty of officers in taking, Sec. 3043, C. L. '97, A.....	122	3	1903
Taking of depositions on, Sec. 7, Ch. 82, L. '01, A.....	122	4	1903
JUDGMENTS—			
Attachment suit; review, Sec. 8, Ch. 75, L. '99, A.....	82	2	1901
JURORS—			
Appointment to supply disqualification, Sec. 9, Ch. 66, L. '99, A	112	4	1903
Grand and petit; qualifications, Sec. 11, Ch. 66, L. '99, A..	112	5	1903
Grand and petit; selection, Sec. 2, Ch. 66, L. '99, A.....	112	2	1903
Selection; issuance of venire, Sec. 5, Ch. 66, L. '99, A.....	112	3	1903
JURY COMMISSIONERS—			
Appointment, Sec. 1, Ch. 66, L. '99, A.....	112	1	1903

		Chap.	Sec.	Yr.
LAND COMMISSIONER—				
Contingent expenses, Sec. 5, Ch. 69, L. '01, A.....	78	6	1903	
Salary, Sec. 2, Ch. 74, L. '99, A	69	1	1901	
LAWFUL INDEBTEDNESS—				
County and municipal; funding of, Sec. 22, Ch. 58, L. '99, A	44	4	1901	
LIABILITY OF PARENTS—				
Torts of children, Sec. 4, Ch. 62, L. '01, A.....	83	1	1901	
LICENSE—				
Application for, Sec. 4154, C. L. '97, R	108	6	1901	
Dealers in merchandise, Sec. 1, Ch. 108, L. '01, A.....	106	1	1903	
Liquor, Sec. 4125, C. L. '97, A	59	1	1901	
LIMITATION OF ACTIONS—				
Non-Residents not included, Sec. 2921, C. L. '97, A.....	62	1	1903	
LIQUOR—				
Sale to Indians, Sec. 1271, C. L. '97, R.	30	1	1903	
LIVE STOCK—				
Impounding of, Sec. 7, Ch. 47, L. '01, A	25	1	1903	
Sale of, Sec. 2, Ch. 23, L. '01, A	66	1	1901	
Trespass by, Sec. 1, Ch. 28, L. '01, A	75	1	1901	
LOUISIANA PURCHASE EXPOSITION—				
Exhibit of products; appropriation, Ch. 100, L. '01, R.....	108	13	1903	
Exhibit of products; appropriation, Ch. 100, L. '01, R.....	118	11	1903	
MANDAMUS—				
Final judgment reviewable, Sec. 2773, C. L. '97, A.....	80	8	1899	
MARRIED PERSONS—				
Conveyances of, Sec. 10, Ch. 62, L. '01, A	5	4	1903	
Property rights, Sec. 1509, C. L. '97, A.....	80	21	1899	
Property rights and divorce, Secs. 1431, 1432, 1509, 1510, 1511, 1512, 1513, 3933, 3943, 3944, 3950, 3951, 3952, 3959, 3962, 3963, 3968 and 3970, C. L. '97, R.....	62	32	1901	
MAYHEM—				
Penalty, Sec. 1082, C. L. '97, A	80	7	1899	
McKINLEY COUNTY—				
County indebtedness, Sec. 9, Ch. 19, L. '99, R.....	39	11	1901	
MEDICINE—				
License to practice, Sec. 3, Ch. 18, L. '01, R	40	12	1903	
Practice of, Ch. 18, L. '01, A	40	..	1903	
MILITIA—				
Organization and regulations, Title 25, C. L. '97, A.....	88	..	1901	
Organization and regulations, Secs. 2249, 2253, 2262 and 2264, C. L. '97, R	88	8	1901	
MINING CLAIMS—				
Assessment work, Secs. 2288, 2309 and 2310, C. L. '97, R..	57	2	1899	
Marking boundaries, Sec. 2299, C. L. '97, A	57	1	1899	
MOTIONS—				
Notice; when to be served, Sub-Sec. 98, Sec. 2685, C. L. '97, A ..	11	1	1901	
MUNICIPAL CORPORATIONS—				
Fire protection; building, Sub-Secs. 31 and 32, Sec. 2402, C. L. '97, R	71	1	1901	
Incorporation; population, Sec. 2477, C. L. '97, A	13	1	1901	
Water and light plants, Sec. 1, Ch. 37, L. '99, A.....	34	1	1903	

	Chap.	Sec.	Yr.
NEW MEXICO MILITARY INSTITUTE			
Each county may send one student, Sec. 3670, C. L. '97, R.	6	7	1901
NEW MEXICO NORMAL UNIVERSITY—			
Tuition of non-residents, Sec. 3655, C. L. '97, A.	18	4	1899
NORMAL SCHOOLS—			
Diplomas considered teachers' certificates, Sec. 3659, C. L. '97, A.	18	5	1899
OTERO COUNTY—			
Collection of back taxes, Sec. 9, Ch. 3, L. '99, A.	23	1	1899
OUTSTANDING INDEBTEDNESS—			
County may issue refunding bonds, Sec. 23, Ch. 58, L. '99, A.	44	5	1901
PEDDLERS—			
Tax imposed, Sub-Div. 1, Sec. 4141, C. L. '97, A.	74	1	1901
Whom considered, Sec. 1, Ch. 74, L. '01, A.	16	1	1903
PENITENTIARY COMMISSION—			
Appointment; term of office, Sec. 3491, C. L. '97, A.	10	1	1899
PLEADING—			
Time for, Sec. 2935, C. L. '97, A.	80	10	1899
POLL BOOKS—			
Fee for preparing, Sec. 1664, C. L. '97, R.	80	22	1899
PRACTICE IN SUPREME COURT—			
Exclusive jurisdiction; when, Sec. 1, Ch. 82, L. '01, R.	26	1	1903
Right of appellant in appeals, Ch. 99, L. '01, R.	26	1	1903
PROBATE COURT—			
Jurisdiction; when, Sec. 928, C. L. '97, A.	80	9	1899
PUBLIC BUILDINGS—			
Insurance of, Sec. 1, Ch. 26, L. '99, A.	107	1	1901
PUBLIC HEALTH—			
Preservation, Ch. 17, L. '01, R.	103	33	1903
PUBLIC LANDS—			
Appraisalment for leasing, Secs. 12 and 13, Ch. 74, L. '99, A.	69	3-4	1901
Classification and sale, Sec. 32, Ch. 74, L. '99, A.	69	13	1901
Credit of funds, Sec. 29, Ch. 74, L. '99, A.	69	11	1901
Leasing of, Sec. 22, Ch. 74, L. '99, A.	69	7	1901
Leasing of, Para. 2, Sec. 21, Ch. 74, L. '99, A.	69	6	1901
Management of, Sec. 27, Ch. 74, L. '99, A.	69	9	1901
Records to be kept, Sec. 6, Ch. 74, L. '99, A.	69	2	1901
Running water, Para. 5, Sec. 18, Ch. 74, L. '99, A.	69	5	1901
Sale; amount, Sec. 32, Ch. 69, L. '01, A.	78	4	1903
PUBLIC LIBRARY—			
Tax levy may be divided, Sec. 2535, C. L. '97, A.	31	1	1899
PUBLIC PARKS—			
Annual tax levy, Sub-div. 83, Sec. 2402, C. L. 91, A.	31	2	1899
PUBLIC SCHOOLS—			
Actual residents in district to attend, Sec. 1556, C. L. 97, A.	78	1	1901
RAILROADS—			
Directors; stock; corporate powers, Secs. 3818, 3829, 2836 and 3846, C. L. '97, A.	29	..	1899
Void contracts, Sec. 3910, C. L. '97, A.	15	1	1901
REAL ESTATE—			
Conveyance; husband and wife, Sec. 21, Ch. 80, L. '99, R.	62	32	1901

REFEREES—	Chap.	Sec.	Yr.
Agreement of parties, Sub-Sec. 156, Sec. 2685, C. L. '97, A..	82	10	1901
Powers of, Sub-Sec. 152, Sec. 2685, C. L. '97, A.....	82	5	1901
REFUNDING INDEBTEDNESS—			
Municipalities, Sec. 13, Ch. 58, L. '99, A	44	1	1901
REGISTRATION BOARD—			
Appointment and duties, Sec. 1702, C. L. '97, A	80	1	1899
REGISTRATION FOR VOTING—			
When not required, Sec. 1701, C. L. '97, A	64	1	1903
When not required, Sec. 1706, C. L. '97, A.	64	2	1903
SANDOVAL COUNTY—			
Election of officers, Sec. 2, Ch. 27, L. '03, A	50	1	1903
SCHOOL ATTENDANCE—			
Compulsory, Sec. 1555, C. L. '97, A	39	1	1903
Compulsory, Sec. 1555, C. L. '97, provisions extended	42	4	1899
SCHOOL CHILDREN—			
Protection of, Ch. 43, L. '01, A	92	..	1903
Protection of, Sec. 5, Ch. 3, L. '01, A	119	6	1903
SCHOOL DIRECTORS—			
Duties, Sec. 1535, C. L. '97, A	119	10	1903
Election, Sec. 11, Ch. 80, L. '99, A	119	1	1903
Election of; notices, Sec. 1532, C. L. '97, A	80	11	1899
Power to levy tax, Sec. 1534, C. L. '97, A	72	1	1903
Special tax; may levy, Sec. 1543, C. L. '97, A	74	1	1903
SCHOOL FUNDS—			
County treasurer to notify county superintendent, Last Para.			
Sec. 1548, C. L. '97, A	119	19	1903
Territorial auditor to keep separate account, Sec. 1540, C.			
L. '97, A	80	20	1899
SCHOOL SECTIONS—			
Leasing or sale of, Sec. 30, Ch. 74, L. '99, A	69	12	1901
SEWERS—			
Construction; assessments; bond issue, Sec. 1, Ch. 72, L. '04, A	96	1	1903
Issue of certificates, Sec. 5, Ch. 72, L. '01, A.....	96	2	1903
SHEEP—			
Bill of sale required, Sec. 166, C. L. '97, R	33	31	1899
Inspection of, Ch. 33, L. '99, A	55	2	1903
Inspection of; dipping, Secs. 163 and 164, C. L. '97, R	33	31	1899
Special tax levy, Sec. 168, C. L. '97, A	33	21	1899
Special tax levy, Sec. 21, Ch. 33, L. '99, R	55	10	1903
Special tax levy, Sec. 168, C. L. '97, R	55	10	1903
SHEEP SANITARY BOARD—			
Appeals to, Sec. 165, C. L. '97, R	33	31	1899
Creation, Sec. 160, C. L. '97, A	55	1	1903
Organization; powers, Secs. 161 and 162, C. L. '97, R	33	31	1899
SHERIFFS—			
Cannot succeed himself in office, Sec. 739, C. L. '97, R....	43	1	1899
Deputy; limited number, Sec. 738, C. L. '97, A	5	1	1901
Mileage of, Title 7, Ch. 10, Sec. 10, C. L. '97, A	5	1	1899
SUPERINTENDENT OF PUBLIC INSTRUCTION—			
Office created, Sec. 1516, C. L. '97, A	80	18	1899
SUPERINTENDENT OF SCHOOLS—			
County; election; compensation, Sec. 1524, C. L. '97, R	80	4	1899

SWINE—

	Chap.	Sec.	Yr..
Running at large; penalty, Secs. 154 and 154a, C. L. '97, R.	54	2	1901

TAOS COUNT—

Boundaries, Sec. 511, C. L. '97, A	52	1	1901
------------------------------------------	----	---	------

TAX—

Collector to receipt, Sec. 4067, C. L. '97, A	22	11	1899
Compromising territorial suits, Sec. 2573, C. L. '97, R.....	22	14	1899
County commissioners to act as board of equalization, Sec. 4048, C. L. '97, A	22	5	1899
County officials to conform tax roll to assessment, Sec. 2635, C. L. '97, A	22	3	1899
County purposes, Sec. 4021, C. L. '97, A	90	10	1901
Current county expense, Sec. 4021, C. L. '97, A	108	9	1903
Delinquent; report, Sec. 4058, C. L. '97, R	22	13	1800
Delinquent; when, Sec. 4066, C. L. '97, A	22	10	1899
Delinquent; when and how cancelled, Secs. 4109, 4110, 4111, 4112, 4113, 4114, 4115, 41116 and 4117, C. L. '97, R	22	14	1899
Duty of assessor, Sec. 4032, C. L. '97, A.....	22	2	1899
Duty of collector; settlement, Secs. 4105, 4106 and 4107, C L. '97, R	22	14	1899
Duty of county collector, Sec. 4068, C. L. '97, A	37	3	1901
Exemptions; homesteads, Sec. 1757, C. L. '97, R	22	8	1899
Exemptions; homesteads, Sec. 8, Ch. 22, L. '99, A	95	1	1901
Fiscal year, Sec. 4015, C. L. '97, A	22	7	1899
Judgment and lien, Sec. 4057, C. L. '97, A	22	6	1899
Land; how to be assessed, Sec. 4045, C. L. '97, A.....	22	4	1899
License, Sub-Div. 2, Sec. 4141, Secs. 4144, 4147, 4149, 4155 and 4156, C. L. '97, A	108	1-6	1901
Lien on property, Sec. 19, Ch. 22, L. '99, A	85	1	1901
Lists; clerk to make; contents, Sec. 4051, C. L. '97, A	37	1	1901
Live stock, Sec. 1, Ch. 38, L. '99, A	10	1	1901
Personal demand unnecessary, Sec. 4062, C. L. '97, A	22	9	1899
Poll, Sec. 1549, C. L. '97, A	27	5	1901
Probate clerk to notify assessor of conveyances, Sec. 3956, C. L. '97, A	22	1	1899
Real estate; procedure in tax sale, Secs. 4074, 4075, 4076, 4081, 4082, 083, 4084, 4086, 4087, 4088, 4089, 4090, 4091, 4092, 4093, 4094 and 4102, C. L. '97, R	22	14	1899
Real estate; redemption in tax sale, Secs. 4095, 4096, 4098 and 4099, C. L. '97, R	22	14	1899
Receipts; form, Sec. 4067, C. L. '97, A	37	2	1901
Sale of tax certificates, Secs. 26 and 27, Ch. 22, L. '99, A..	7	1-2	1901
School, Sec. 1537, C. L. '97, A	90	12	1901
School, Sec. 1537, C. L. '97, A	21	1	1901
School purposes, Sec. 1537, C. L. '97, A	108	10	1903
Special attorney in tax cases, Sec. 649, C. L. '97, R.....	22	14	1899
Suit; when to begin, Sec. 2588, C. L. '97, R	22	14	1899
Uncollected; auditor to credit each county, Sec. 4071, C. L. '97, A	22	12	1899

TEACHERS—

Attendance at institutes, Sec. 1613, C. L. '97, A	27	4	1901
Certificates, Sec. 2, Ch. 27, L. '01, A	119	10	1903

TERRITORIAL BOARD OF EDUCATION—

Duties, Sec. 1526, C. L. '97, A	27	2	1901
Meetings, Sec. 1514, C. L. '97, A	27	1	1901

TERRITORIAL FUNDS—

Deemed trust fund, Sec. 28, Ch. 74, L. '99, A	69	10	1901
-----------------------------------------------------	----	----	------

			Chap.	Sec.	Yr.
TERRITORIAL TREASURER—					
Bond	Sec. 1539, C. L. '97, R	80	19	1899	
TRUST COMPANIES—					
Directors,	Sec. 17, Ch. 52, L. '03, A	115	1	1903	
UNITED STATES CENSUS—					
License; to apply as to fixing rate,	Sec. 4132, C. L. '97, A.	87	1	1901	
VACCINATION—					
Vaccinators; appropriation	Secs. 3704, 3705 and 3711, C. L. '97, R	17	30	1901	
VOTE—					
Where to be cast,	Sec. 1646, C. L. '97, R	80	3	1899	
VOTES—					
County clerk to certify,	Sec. 1654, C. L. '97, A	80	2	1899	
WATER—					
Pollution of; penalty,	Sec. 54, C. L. '97, A	79	1	1899	

The following Sections of the Compiled Laws of 1897 have been Amended or Repealed by the Session Laws of 1899:

36 A; 34 A; 161 R; 162 R; 163 R; 164 R; 165 R; 166 R; 168 A; 211 R; 221 R; 254 A; 441 A; 443 A; 649 R; 714 R; 717 R; 739 R; 763 R; 764 R; 765 R; 766 R; 767 R; 867 sub-secs. 5, 8 and 13 A; 928 A; 1027 A; 1082 A; 1509 A; 1516 A; 1524 R; 1532 A; 1539 R; 1540 A; 1555 A; 1646 R; 1653 A; 1654 A; 1657 R; 1664 R; 1702 A; 1757 R; 288 R; 2299 A; 2309 R; 2310 R; 2402 sub-div. 83 A; 2535 A; 2573 R; 2588 R; 2635 A; 2640 A; 2641 A; 2644 A; 2685 sub-secs. 172, 175 and 176 A; 2698 A; 2708 A; 2730 to 2737 inclusive R; 2773 A; 2935 A; 2937 A; 2938 A; 2950 A; 3403 R; 3409 R; 3473 A; 3420 A; 3491 A; 3536 A; 3541 A; 3655 A; 3659 A; 3693 A; 3777 R; 3818 A; 3829 A; 3836 A; 3846 A; 3956 A; 4015 A; 4032 A; 4045 A; 4048 A; 4057 A; 4058 R; 4062 A; 4066 A; 4067 A; 4071 A; 4074 R; 4075 R; 4076 R; 4081 R; 4082 R; 4083 R; 4084 R; 4086 R; 4087 R; 4088 R; 4089 R; 4090 R; 4091 R; 4092 R; 4093 R; 4094 R; 4095 R; 4096 R; 4098 R; 4099 R; 4102 R; 4105 R; 4106 R; 4107 R; 4109 R; 4110 R; 4111 R; 4112 R; 4113 R; 4114 R; 4115 R; 4116 R; 4117 R; prefatory chapter A; title 7, Ch. 10, Sec. 10, A.

The following Sections of the Compiled Laws of 1897 have been Amended or Repealed by the Session Laws of 1901:

16 A; title 25 A; 92 R; 125 A; 145 R; 146 R; 147 R; 148 R; 149 R; 150 R; 151 R; 154 R; 154 (a) R; 241 A; 260 A; 301 A; 511 A; 738 A; 1431 R; 1432 R; 1477 A; 1509 R; 1510 R; 1511 R; 1512 R; 1513 R; 1514 A; 1526 A; 1537 A; 1549 A; 1556 A; 1613 A; 1654 R; 1655 R; 1831 R; 1832 R; 1833 R; 1834 R; 1938 R; 1939 R; 1941 R; 1943 A; 1945 R; 1946 R; 1955 R; 1961 R; 2005 A; 2023 R; 2030 R; 2031 R; 2249 R; 2253 R; 2262 R; 2464 R; 2402 sub-secs. 31 and 32 R; 2477 A; 2640 R; 2541 R; 2642 R; 2643 R; 2644 R; 2645 R; 2646 R; 2685 sub-secs. 39, 98, 104, 152 and 156 A; 3016 A; 3107 A; 3108 R; 3109 R; 3345 A; 3420 A; 3468 R; 3469 R; 3470 R; 3471 R; 3472 R; 3670 R; 3704 R; 3705 R; 3711 R; 3910 A; 3933 R; 3943 R; 3944 R; 3950 R; 3951 R; 3952 R; 3959 R; 3962 R; 3963 R; 3968 R; 3970 R; 4021 A; 4051 A; 4067 A; 4068 A; 4125 A; 4132 A; 4141 sub-divs. 1 and 2 A; 4144 A; 4147 A; 4149 A; 4154 R; 4155 A; 4156 A.

The following Sections of the Compiled Laws of 1897 have been Amended or Repealed by the Session Laws of 1903:

8 A; 9 A; 10 A; 11 A; 12 R; 13 A; 13 R; 24 A; 30 R; 31 R; 32 A; 32 R; 33 R; 34 R; 35 R; 36 R; 37 R; 38 R; 39 R; 160 A; 168 R; 197 A; 200 A; 223 A; 445 A; 446 A; 598 R; 599 R; 600 R; 601 R; 602 R; 603 R; 604 R; 605 R; 606 R; 607 R; 608 R; 609 R; 610 R; 611 R; 612 R; 1067 A; 1271 R; 1534 A; 1535 A; 1537 A; 1543 A; 1548 3rd Para. A; 1548 last Para. A; 1555 A; 1613 A; 1633 A; 1701 A; 1706 A; 2052 A; 2053 A; 2402 sub-sec. 82nd R; 2402 sub-sec. 92nd A; 2685 sub-sec. 175 A; 2921 A; 3041 A; 3043 A; 3052 A; 3053 R; 3054 R; 3055 R; 3721 A; 3722 A; 3850 sub-div. 2 A; 4021 A.

The following Sections and Chapters of the Session Laws

of 1899 have been Amended or Repealed by the Session Laws of 1901:

Ch. 11 A; Ch. 12 R; Sec. 9, Ch. 19, R; Sec. 8, Ch. 22, A; Sec. 19, Ch. 22, A; Secs. 26 and 27, Ch. 22, A; Sec. 1, Ch. 26, A; Ch. 32 A; Ch. 34 R; Secs. 1, 12, 13, 14, 15, 22, 23 and 24, Ch. 58, A; Sec. 29, Ch. 58, R; Secs. 2, 5, 6, 12, 13, 18 Para. 5, 21 Para. 2, 22, 23, 27, 28, 29, 30, 32, 33 and 34, Ch. 74, A; Sec. 8, Ch. 75, A; Secs. 3 and 4, Ch. 77, R; Sec. 5, Ch. 77, A; Secs. 1 and 3, Ch. 78, A; Sec. 21, Ch. 80, R.

The following Sections and Chapters of the Session Laws of 1899 have been Amended or Repealed by the Session Laws of 1903:

Sec. 21, Ch. 33, R; Sec. 1, Ch. 37, A; Ch. 51, R; Secs. 1, 2, 5, 9 and 11, Ch. 66, A; Sec. 11, Ch. 80, A.

The following Sections and Chapters of the Session Laws of 1901 have been Amended or Repealed by the Session Laws of 1903:

Sec. 5, Ch. 3 A; Ch. 10 A; Ch. 17 R; Ch. 18 A; Sec. 3, Ch. 18, R; Sec. 2, Ch. 27, A; Ch. 43 A; Sec. 7, Ch. 47, A; Sec. 10, Ch. 62, A; Ch. 64 R; Sec. 1, Ch. 67, A; Secs. 1 and 5, Ch. 72, A; Sec. 1, Ch. 74, A; Sec. 16, Ch. 81, A; Sec. 1, Ch. 82, R; Sec. 7, Ch. 82, A; Sec. 5, Ch. 84, A; Sec. 11, Ch. 90, A; Ch. 99 R; Ch. 100 R; Sec. 1, Ch. 108, A.

The following Sections and Chapters of the Session Laws of 1899 have been Amended or Repealed by the Session Laws of 1899:

Sec. 9, Ch. 3, A; Secs. 2 and 3, Ch. 9, A.

The following Sections and Chapters of the Session Laws of 1901 have been Amended or Repealed by the Session Laws of 1901:

Sec. 2, Ch. 23, A; Sec. 1, Ch. 28, A; Sec. 4, Ch. 62, A.

The following Sections and Chapters of the Session Laws of 1903 have been Amended or Repealed by the Session Laws of 1903:

Ch. 9, provisions extended; Secs. 1, 2 and 3, Ch. 9, A; Secs. 2 and 3, Ch. 27, A; Sec. 1, Ch. 46, A; Sec. 17, Ch. 52, A.

INDEX

A

ACEQUAIS

	Chap.	Sec.	Pag.
Appeals from justice of the peace courts.....	32	10	50
Appraisers, Sec. 24, C. L. '97, A	44	3	70
Commissioners—			
Compensation	32	7	50
May make assessments	44	1	59
Neglect of duty, penalty	15	4	25
Neglect of duty, penalty	32	9	50
Organization	32	1	47
Organization	15	2	26
Secretary to furnish mayordomo with rules	15	2	26
Secretary to keep records	15	2	26
To keep records	32	3	48
Treasurer to give bond	32	1	47
Treasurer to report to	32	3	48
Vacancies	32	1	47
Water, to apportion and distribute	15	1	26
Considered corporations, Sec. 8, C. L. '97, A	98	1	176
Drainage, commissioners to determine place of opening	85	1	151
Drainage, mayordomo to take charge of	85	1	151
Drainage to protect dams, opening of	85	1	151
Drainage, unlawful to obstruct	85	3	152
Distribution of water, how made	15	3	26
Election of officers	32	2	47
Election of officers, contests in	32	2	47
Excess water, owners to pay for	85	2	152
Excess water, penalty for use	85	2	152
Fatigue work, commissioners to assess	32	3	48
Fines, how disposed of	32	8	50
Fines, to be applied to school fund of district	15	4	27
Interference with, penalty	32	6	49
Interference with, penalty	44	2	69
Joint drainage, mayordomo to regulate excess water	85	4	152
Joint drainage, use of excess water, penalty	85	3	152
Judges of election in counties of first class	32	11	50
Labor by owners, exemption when	32	5	49
Labor by owners, penalty	32	4	49
Law not to apply to certain counties	32	12	51
Management, Secs. 36, 37, 38 and 39, C. L. '97, R	44	5	70
Mayordomo—			
Compensation	32	7	50
Duties, penalty for failure to perform	32	8	50
Neglect of duty, penalty	15	4	26
To enforce orders of commissioners	15	1	26
To give bond	32	1	47
To make report	32	3	48
Violations, to prosecute	44	2	70
Vacancies	32	1	47

	Chap.	Sec.	Pag.
ACEQUAIS—Continued—			
Officers—			
Duties, Sec. 11, C. L. '97, A	32	3	48
Election, Sec. 9, C. L. '97, A	32	1	46
Number to each acequia	98	1	176
Who entitled to vote for	32	11	50
Owners failing to labor, penalty	44	4	70
Owners failing to labor, penalty	85	1	152
Owners to labor on	44	4	70
Qualifications of voters, Sec. 10, C. L. '97 A	32	2	47
Rio Grande, act not to apply to	15	5	27
Secs. 11 and 13, C. L. '97, A	44	1-2	69
Secs. 12, 13, 30, 31, 32, 33, 34, 35 and 36, C. L. '97, R.....	32	12	51
ACTION TO QUIET TITLE—			
Code not to apply to	5	1	9
ADJUTANT GENERAL—			
Armory boards of control, member of	53	3	100
Salary, appropriation for	108	8	205
ADMINISTRATORS—			
Assignment of beneficial interests validated	29	2	44
Beneficial interests, to assign to owner	29	1	44
Trust companies, may act as	52	5	87
Who cannot serve as, Sec. 16, Ch. 81, L. '01, A.....	35	1	56
AFFIDAVIT—			
Personal injury cases, filing of	33	1	51
ALDERMEN—			
Cities—			
Election and term of office, Sec. 3, Ch. 9, L. '03, A	93	2	167
Term of office, date of election	9	1-3	21
AMENDMENTS—			
See special index, ante.			
AMERICAN FLAG—			
May be used as emblem on ballots	63	2	122
Offering insult to, penalty	63	1	121
Use for advertising purposes prohibited	63	1-2	121
ANTELOPE—			
Unlawful to kill when	48	15	79
APPEALS—			
Acequia cases, to district court	32	10	50
Board of health, teachers to take when	92	2	166
Supreme court, right of appellant, Sec. 1, Ch. 82, and Ch. 99, L. '01, 9	26	1	36
APPRAISERS—			
Damaged Fields—			
Appointment	73	1	137
Qualifications, duties and compensation	73	2	137
APPROPRIATIONS—			
Additional pay for capitol employes, J. R. No. 17 .....	..	..	248
Baca, A. B.	10	1	22
Board of equalization	61	2	120
Court ouse repair fund	108	11	212
Current county expenses, Sec. 4021, C. L. '97, A	108	9	212
Employes and contingent expenses of legislature, J. R. No. 3 ..	..	..	239
Employes and contingent expenses of legislature, J. R. No. 6 ..	..	..	241
Employes and contingent expenses of legislature, J. R. No. 9..	..	..	243

APPROPRIATIONS—Continued—

	Chap.	Sec.	Pag.
Employes and contingent expenses of legislature, J. R. No. 14 ..	..	..	247
Extended to 56th fiscal year	108	5	203
Fiscal year, time of	108	7	204
Governor's message, printing of, J. R. 12 ..	..	..	245
History of New Mexico, preparation of	23	2	34
Institutions inspection committee, J. R. No. 15 ..	..	..	247
Interest on bonded indebtedness	108	1	199
Legislative assemblies to make specific	88	7	157
Louisiana Purchase Exposition	118	7	226
Orphan Children's Home, tax levy	6	3	11
Pay for ten days to officers and clerks of legislature, J. R. No. 16 ..	..	..	248
Penitentiary, to drill wells	86	2	153
Printing report of superintendent of public instruction, J. R. No. 5 ..	..	..	240
Printing rules of supreme and district courts	45	1	70
Provision in case legislature fails to pass appropriation bill ..	108	12	212
Public school purposes, Sec. 1537, C. L. '97, A.	108	10	212
Road from Santa Fe to Las Vegas	56	8	114
School laws, compilation of	88	2	44
Surplus to be credited to following year	108	6	203
Temporary provisional indebtedness fund created	108	13	215
Territorial purposes, levy for	108	4	203
Charitable Institutions—			
Named, tax levy	108	3	202
Deficiencies—			
Board of education, expenses	108	8	211
Deaf and dumb asylum, maintenance	108	8	210
Penitentiary commissioners, salary	108	8	210
Printing tax rolls	108	8	211
Public printer, balance due for printing laws	108	8	211
Sheriffs Dona Ana, Grant and Union counties, executing death warrant	108	8	210
Sheriffs, execution of requisitions	108	8	210
Sheriffs, serving requisition papers	108	8	211
Sheriffs, transportation of prisoners to penitentiary	108	8	210
Superintendent of public instruction, expenses of office ..	108	8	211
Tax assessment rolls	108	8	211
Transcribing election returns	108	8	210
Wild animal bounties	108	6	211
Militia Fund—			
Armories, rent of	108	8	211
National guard, support of	108	8	211
Miscellaneous Fund—			
Auditor's office, incidental expenses	108	8	206
Bureau of immigration, incidental expenses	108	8	207
Capitol custodian committee	108	8	207
Capitol, repair of	108	8	208
Citizens of Grant and Luna counties, relief of	108	8	208
Citizens of Silver City, relief of	108	8	209
Governor's office, contingent expenses	108	8	206
Laws, mailing of	108	8	208
Laws and journals, printing of	108	8	207
Library, incidental expenses	108	8	206
Library, Purchase of books	108	8	206
New Mexico Historical Society	108	8	207
Printing tax and poll books, etc.	108	8	207
Public wagon road	108	8	209
Secretary's office, contingent expenses ..	108	8	208

APPROPRIATIONS—Continued—

	Chap.	Sec.	Pag.
Secretary's office, printing session laws	108	8	208
Sheriff Chaves county	108	8	208
Sheriffs, per diem and other expenses	108	8	207
Statehood committee, expenses of	108	8	209
Superintendent of public instruction, contingent expenses	108	8	207
Translating laws and journals	108	8	207
Treasurer's office, incidental expenses	108	8	206
Weather bureau, printing	108..	8	207
Penitentiary—			
Pay of officers and maintenance	108	7	204
Salary Fund—			
Territorial officers	108	8	205
Supreme Court—			
Clerk, salary	108	8	206
Printing and expenses of solicitor general	108	8	206
Printing dockets and calendars	108	8	206
Territorial Institutions—			
Named, tax levy	108	2	199

ARCHIVES—

Indexing of	102	1	179
Preservation, classification and return of	102	1	179
Territorial librarian authorized to send to library of congress..	102	1	179

ARMORIES—

Appropriation for	108	8	211
See "Armory Boards of Control."			

ARMORY BOARDS OF CONTROL—

Appointment	53	1	100
Bodies corporate	53	5	101
Bond issue to erect armories, form	53	8	101
Duties	53	2	100
Lands for erection of armories, to be donated	53	10	102
Of whom composed	53	3	100
Organization, adoption of rules, meetings	53	6	101
Tax levy to pay principal and interest of bonds	53	9	102
Terms of office	53	4	100
Treasurer to give bond	53	7	101

ARTESIAN WELLS—

See "Wells, Artesian."

ASSESSMENTS—

Acequias, commissioners may make	44	1	69
Sewerage purposes, Sec. 2, Ch. 72, L. '01, A	96	1	170
Sewers, time of payment, Sec. 5, Ch. 72, L. '01,	966	2	171
Sprinkling streets	116	1	224
Street improvement, Sub-sec. 82nd, Sec. 2402, C. L. '97, R..	42	9	68
Street improvement, against abutting property	42	5	67
Street, lien on abutting property	42	6	67

ASSESSORS—**County—**

Bernalillo, commissioners to appoint	49	1	81
Bernalillo, election of	27	3	38
Examination of accounts by traveling auditor	54	5	105
Manner of assessing building and savings and loan associations, Sec. 1, Ch. 67, L. '01, A.	68	1	126

ASSIGNATION, HOUSE OF—

Chap. Sec. Pag.

See "Bawdy House."

ASSISTANT SECRETARY, TERRITORIAL—

See "Secretary, Territorial."

ATTACHMENT—

Code not to apply to	5	1	9
Shares of corporations	94	1-2	167

ATTORNEYS—

Commissioners may employ to defend county	88	9	159
District—			
Appointment	46	1	72
Bawdy houses, to prosecute violations	113	1	221
Colfax county, change of salary	12	1	24
Compulsory school laws, duty as to violations	39	3	60
Districts established	46	1	71
Leonard Wood county, salary	69	11	131
Qualifications	46	1-2	71
Quay county bonds, to approve	8	6	13
Quay county, salary	8	11	20
Residence of, Sec. 1, Ch. 46, L. '03, A	104	1	192
Roosevelt county bonds, to approve	7	6	14
Roosevelt county, salary	7	11	15
Salary	46	2	72
Salary, appropriation for	108	8	205
Sandoval county, appointment and salary	27	9	40
Second judicial district, to approve bond issue	27	12	41
Term of office	46	1	72
Torrance county	70	8	134
Union county, change of salary	12	1	24
Violations of bawdy house laws, failure to prosecute, penalty	113	1	221

AUDITOR, TERRITORIAL—

Appropriation for expenses	108	8	206
Apportionment of revenue	83	8	157
Armory building bonds, to countersign	53	8	101
Board of equalization to file taxable values with	88	5	157
Board of Louisiana Purchase Exposition managers to file records with	118	9	227
Bond issue for erection of armories, to levy tax	53	9	102
Bond of trust companies to be deposited with	52	6	88
Commissioners of Public Lands to file accounts with	73	6	146
Counties defaulting in raising revenue, duty of	88	9	158
County refunding bonds, to transmit to county commissioners rate of tax levy	89	9	162
County refunding bonds, to make levy when	89	8	162
Delinquent taxes, to balance and close accounts	54	12	107
Funds borrowed, to countersign papers	108	1	199
Indebtedness Luna county, to ascertain	79	1	147
Indebtedness Sandoval county, to ascertain and adjust	27	11	40
Orphan Children's Home, to make tax levy	6	3	11
Quay county, to ascertain indebtedness of	8	5	17
Revenue, to apportion	88	8	157
Revenue territorial purposes, tax levy	88	9	158
Revenue territorial purposes, duty in raising	88	6	157
Roosevelt county, to ascertain indebtedness of	7	5	13
Salary, appropriation for	108	8	205
Securities of trust companies, to supervise	52	6	88
Tax for Louisiana Purchase Exposition, to levy	108	8	227

AUDITOR, TERRITORIAL—Continued—			Chap.	Sec.	Page
Tax for public school purposes, to levy	108	14	212		
Tax, to direct county commissioners to levy	88	8	157		
Traveling auditor, to transfer documents to	54	9	107		
Trust Companies—					
Articles of agreement to be filed with	52	2	85		
Board of directors to file oath with	52	17	96		
Decrease in reserve fund, to take charge	52	10	91		
Failure to report, to take charge	52	11	92		
Fees for report and examination of	52	13	93		
Reduction in capital stock, to take charge	52	15	93		
Refusal to be examined, to take charge	52	12	92		
Report to be made to	52	11	92		
Special examiners for, may appoint	52	12	92		
To investigate	52	12	92		
Warrants—					
Additional pay for capitol employes, to draw, J. R. No. 17 ..	..	..	248		
Appropriation for drilling penitentiary wells, to draw....	86	2	153		
Expenses of legislature, to draw, J. R. No. 3.....	..	..	239		
Expenses of legislature, to draw, J. R. No. 6 .....	..	..	241		
Expenses of legislature, to draw, J. R. No. 9 .....	..	..	243		
Expenses of legislature, to draw, J. R. No. 14 .....	..	..	247		
Institutions inspection committee, J. R. No. 15 .....	..	..	247		
Mileage and compensation of board of education.....	123	3	235		
Printing governor's message, J. R. No. 12 .....	..	..	245		
Printing report of superintendent of public instruction, J. R. No. 5 .....	..	..	240		
Printing rules of supreme and district courts	45	2	71		
Salary and contingent expenses of commissioner of pub- lic lands	78	5	146		
Salary United States land commission	78	2	145		
Spanish printing, J. R. No. 7 .....	..	..	242		
Ten days' pay of officers of legislature, J. R. No. 16 ....	..	..	248		
AUDITOR, TRAVELING—					
Appointment	54	1	103		
Banks, to examine	54	6	106		
Banks, loan and trust companies, to report to	54	9	106		
Board of equalization, may direct to visit counties	88	4	156		
Board of equalization, to make report to	54	4	105		
Bond, to give	54	1	103		
Corporations, moneyed, to examine	54	6	106		
County assessors to permit examination of books by	54	5	105		
County records, to inspect	54	3	105		
Duties	54	2	104		
Officers of moneyed corporations hindering examination by..	54	10	107		
Officers of moneyed corporations to aid in examination.....	54	7-8	106		
Power to issue subpoenas and administer oaths	54	10	107		
Report, to make to board of equalization	88	4	156		
Report, to make to governor	54	11	107		
Salary	54	1	103		
Savings banks, to examine	54	6	106		
Tax rolls, to prepare	54	4	105		
Term of office	54	1	103		

B

BALLOTS—

American flag may be used as emblem	63	2	122
Description on, how printed	59	2	118
Emblem to be placed on	59	2	118
Emblem, unlawful to use when	59	2	118

BALLOTS—Continued—

	Chap.	Sec.	Pag.
Names may be erased	59	2	118
Unlawful use, penalty	59	3	118
Vacancies on may be filled	59	2	118

BANK EXAMINER—

See "Auditor, Territorial."

BANKING, MERCANTILE COMPANIES—

Accounts to be kept separate	109	4	215
Capital stock	109	1	214
Certificate to be filed with probate clerk	109	1	214
Certificate to be filed with secretary of the territory	109	1	214
Corporations now existing may carry on	109	2	214
May carry on when	109	1	214
Reserve fund	109	3	215

BANKS—

Officers hindering examination, penalty	54	10	107
Officers to aid traveling auditor in examination of	54	7-8	106
Report, to make to traveling auditor	54	9	106

BANKS, SAVINGS—

Traveling auditor to examine	54	6	106
------------------------------------	----	---	-----

BAWDY HOUSES—

Violations, Sec. 5, Ch. 84, L. '01, A	113	1	221
Violations, district attorney to prosecute	113	1	221

BERNALILLO COUNTY—

Commissioners to divide into commissioner districts	49	2	81
Commissioners to give notice of election	27	3	38
Legislative representation	27	8	39
Licenses issued, Sandoval county to receive portion	27	14	42
Officers, election of, Sec. 3, Ch. 27, L. '03, A	49	1	81
Precincts and precinct officers	27	10	40
Registration lists, special election	27	4	38
Sale of Sandoval county bonds, to receive proceeds	27	13	41
School districts and officers	27	10	40
Treasurer to collect taxes of Santa Fe R. R. Company	18	1	29
Unpaid taxes, Sandoval county to receive	27	14	42
See also "Counties."			

BILLS—

Funeral expenses of soldiers and sailors, to be audited.....	11	3	23
--------------------------------------------------------------	----	---	----

BOARD OF DIRECTORS—**Trust Companies—**

Dividends, may declare	52	27	99
Election, term of office	52	17	95
Oath, to file with auditor	52	17	96
Officers, powers	52	19	96

BOARD OF EDUCATION—

Cities, term of office, date of election	9	1-3	21
Cities, term of office, Sec. 3, Ch. 9, L. '03, A	93	2	167
City of Santa Fe—			
Bonds for school buildings, may issue.....	97	1	172
Bond issue, question to be submitted to voters	97	1	173
Bonds, sale of	97	3	174
Grounds, material and labor, to provide	97	5	175
School buildings, land donated for	97	6	175
School buildings, penitentiary to furnish labor	97	4	174

BOARD OF EDUCATION—Continued—

	Chap.	Sec.	Page
Sinking fund, tax levy to create	97	2	173
Tax levy to pay interest on bonds, may fix rate	97	2	173
Territorial—			
Certificates of teachers, to revoke when	120	2	234
County institutes, may permit two counties to unite	119	4	229
County institutes, to prescribe course of study for	120	2	234
Deficiency appropriation	108	8	211
History of New Mexico, adoption as a text book	23	4	34
History of New Mexico, to fix price per volume	23	4	34
History of New Mexico, to let contract for printing	23	4	34
Mileage and compensation	120	3	235
Oxford University scholarships, J. R. No. 13 .....	..	..	245

BOARD OF EQUALIZATION—**Territorial—**

Abstract of tax values, to file in auditor's office	88	5	157
Appointment of additional members	61	1	120
Appropriation	61	2	120
Members to make report	88	3	156
President may appoint members to visit counties	88	2	156
Salary, appropriation for	108	8	205
Tax values, how to be credited	88	10	159
Tax values, to fix	88	5	157
Traveling auditor, may direct to visit counties	88	4	156
Traveling auditor, to report taxable valuations to	54	4	105
Value of property, to meet to determine	88	1	156

BOARD OF HEALTH—**Practice of Medicine—**

Applicants, false swearing, penalty	40	3	62
Appointment	40	1	61
Certificates to be recorded	40	4	62
Examinations, Sec. 3, Ch. 18, L. '01, R	40	12	65
Fees	40	7	63
Fees and fines, distribution of	40	10	64
Licenses, refusal to grant when	40	5	62
Licenses, to grant	40	3	61
Licenses to physicians of other states	40	9	64
Licenses, to revoke when	40	5	62
Meetings, time and place of holding	40	2	61
Oaths, to administer	40	3	62
Officers of	40	2	61
Peddlers of drugs, licenses required	40	8	63
Peddlers, penalty for not obtaining license	40	8	64
Practice of medicine defined	40	6	63
Practicing without license, penalty	40	9	64
Recognized medical colleges, to publish list of	40	3	62
Rules and regulations, to make	40	11	65
Secretary and treasurer, duties	40	10	64
Teachers to take appeal to, when	92	1-2	165
Temporary license, secretary may grant	40	3	62
Term of office, qualifications	40	1	61
Treasurer to give bond	40	10	64

Public Health—

Articles which may communicate disease, regulations	103	4	181
Baggage and other articles infected, seizing of	103	15	184
Bodies disinterred, shipment of	103	20	188
Bodies, embalming for shipment	103	20	185

BOARD OF HEALTH—Continued—

	Chap.	Sec.	Page.
Bodies, transit permits to ship	103	20	187
Bodies, transportation of, regulations	103	20	185
Building, car or train, may enter	103	8	182
County health officers, powers	103	22	188
County health officers, qualifications	103	25	189
County health officers, to appoint	103	22	188
Disease, head of family to notify of	103	20	185
Disease, physicians to notify of	103	19	185
Embalmers, to obtain certificate from	103	20	185
Expense in municipal corporations, by whom paid	103	26	189
Expense outside of municipal corporations	103	26	189
Fees	103	27	190
Infected counties, special meetings may be called	103	18	185
Infected persons, to restrain from traveling	103	13	183
Nuisances—			
Entry under warrant to abate	103	9	182
Inspection and abatement of	103	5	181
May be removed by	103	7	182
Owner or occupant to remove	103	6	181
Power to regulate	103	2	181
Persons coming from infected places, license	103	13	183
Persons infected with contagious disease, removal	103	10-12	182
Persons infected, warrant may issue for removal	103	14	183
Powers and duties	103	1	180
Quarantine—			
Infected precincts or counties	103	17	184
May authorize	103	32	191
Notice to be published	103	16	184
Publication of	103	32	191
Railroads, to pass regulations concerning	103	3	181
Regulations, to make publication of	103	23	189
Vaccination—			
County health officers to direct	103	21	188
Adults	103	31	191
School children, regulations	103	29	190
To make provisions for	103	21	188
Violations of act, penalty	103	24	189
Ch. 17, L. '01, R	103	33	191

BOARD OF LOUISIANA PURCHASE EXPOSITION MANAGERS—

Appropriation for	118	7	226
Compensation	118	3	226
County commissioners may make appropriation	118	10	227
Duties	118	4-9	226
Funds collected made available	118	11	228
Funds to be turned over to territorial treasurer	108	13	213
Governor, to report to	118	6	226
Number and appointment	118	1	225
Organization and powers	118	2	225
Sub-mission, may appoint	118	10	227
Ch. 100, L. '01, R	118	11	228
Ch. 100, L. '01, K	108	13	213

BOARD OF PHARMACY—

Examinations, Sec. 3721, C. L. '97, A	43	1	68
Fees, Sec. 3722, C. L. '97, A	43	1	68
Re-examination	43	1	68
Registration, fees	43	1	68
Renewal of license, fees	43	1	68

BOARD OF PUBLIC LANDS—**Chap. Sec. Pag.**

Leases for improvement of Rio Grande, to cancel	78	7	146
Leases for reservoirs, to cancel	78	7	146
Money advanced for locations, to repay	78	3	145
Sale of public lands, to reimburse territory	78	4	145
Sec. 5, Ch. 69, L. '01, A	78	6	146
Ch. 69, L. '01, R	108	2	201

BOARD OF REGENTS—**Orphan Children's Home—**

Appointment	6	1	11
Qualifications	6	1	11
Term of office	6	1	11

BOARDS OF TRUSTEES—**Las Vegas Land Grant—**

Appointment	47	2	73
Bond, to give	47	5	73
Corporate name	47	8	73
Deeds, to deliver to those having title	47	7	73
District court, to exercise control over	47	4	73
Duties of president and secretary	47	3	73
May lease, sell or mortgage land	47	9	73
Organization	47	2	73
Salary	47	6	73

Tecolote Land Grant—

Compensation	77	6	143
Election	77	3	142
Meetings	77	6	143
Organization	77	4	143
Powers	77	5	143
President, secretary and treasurer, duties	77	4	143
Qualifications	77	2	142
Term of office	77	3	142

Territorial Institutions—

Appointment	2	6	3
Bodies corporate	2	6	4
Bond, secretary and treasurer to give	2	6	4
Erection of buildings	2	13	7
Furnishing of buildings	2	13	7
Organization	2	6	4
Powers and duties	2	7	4
Qualifications	2	6	3
Term of office	2	6	3

Towns—

Acts of mayor, to endorse	14	1	25
Acts vetoed by mayor, passage of	14	2	25
Annexed territory, to divide into wards	105	5	194
Health laws, to enforce	103	28	190
Incorporation of, may extend boundary lines	111	2	218
Incorporation, to make application to governor	111	1	217
Petition for annexation, to act upon	105	1	193
Qualifications	99	1	177
Quarantine, may establish	103	32	191
Sewer assessments by	96	1	170
Sewer certificates, to issue	96	2	171
Street improvements, to let contracts for	42	4	67
Street improvements, to let contracts for	42	5	67

BOARD OF TRUSTEES—Continued—

Chap. Sec. Pag.

Streets, may order improvement of	42	1	66
Streets, to set time for hearing of owners of abutting property	42	2-3	66

BONDS—**Fidelity and Indemnity—**

Acequia commissioners, treasurer to give	32	1	47
Assistant secretary of the territory to give	75	1	141
Board of health, treasurer to give	40	10	64
Board of trustees of Las Vegas Grant, to give	47	5	73
Board of trustees territorial institutions, secretary and treasurer to give	2	6	4
County officials not to sign for others	57	1-2	115
County school superintendent, failure to give	100	3	178
County school superintendents, to give	100	1-2	177
Game and fish warden, to give	48	2	75
Horticultural commissioners, treasurer to give	107	7	198
Locating agent United States land commission	78	1	144
Mayordomo, to give	32	1	47
Traveling auditor, to give	54	1	103
Treasurer armory boards of control, to give	53	7	101
Trust companies, to give	52	6	88

Indebtedness—

Board of education City of Santa Fe, may issue	97	1	172
Board of education City of Santa Fe, sale of	97	3	174
Cattle sanitary board, may issue, Sec. 200, C. L. '97, A. .	1	2	1

Counties—

Commissioners to compromise	95	1	168
Commissioners to pledge credit to pay compromise..	95	2	168
Compromise of rate of interest	95	3	169
Coupons compromised receivable as taxes	95	5	170
Refunding in aid of railroad construction	89	1-13	159
Terms upon which to be compromised	95	4	169
Erection of armories, form and sale of	53	8	101
Grant county, Luna county to pay money for interest	82	1	150
Leonard Wood county, court house, jail and expenses....	69	8	130
Leonard Wood county, to issue	69	7	120
Outstanding, school directors may make levy	74	1	140
Quay county, court house purposes and expenses	8	8	19
Quay county, district attorney to approve	8	6	18
Quay county, may issue	8	6	18
Roosevelt county, court house purposes and expenses....	7	8	15
Roosevelt county, direct attorney to approve	7	6	14
Roosevelt county issue	7	6	13
Sandoval county, commissioners may issue	27	12	41
Sandoval county, court house purposes and expenses....	27	15	42
Sandoval county, sale of	27	13	41
Taos county, petition to congress to refund, J. M. No. 4 ..	..	..	255
Territorial, appropriation to pay interest	108	1	199
Territorial, retirement of	67	1	125
Torrance county, court house, jail and expenses	70	11	134
Torrance county, to issue for benefit Valencia county	07	9	134

See also "Refunding Bonds."

BOUNDARY LINES—**Counties—**

Leonard Wood	69	2	128
Quay	8	1	17
Rio Arriba changed	24	1	35

BOUNDARY LINES—Continued			Chap.	Sec.	Pag.
Roosevelt	7	1	12		
Sandoval	27	1	37		
Torrance	70	1	132		
Towns and Villages—					
Board of trustees may change	111	2	217		
BOUNTIES—					
Wild Animals—					
Amounts to be paid, Ch. 10, L. '01, A	80	1	148		
Application to probate clerk	80	2	148		
Deficiency appropriation	108	8	211		
False affidavit as to killing, penalty	80	3	149		
BUILDING AND LOAN ASSOCIATIONS—					
Assessment and taxation, Sec. 1, Ch. 67, L. '01, A	68	1	126		
Reincorporation—					
Articles of agreement, contents of	52	21	97		
Articles of agreement, filing of	52	22	97		
Capital stock	52	25	99		
Directors, term of office	52	24	98		
Dividends, when and how declared	52	27	99		
General incorporation act applicable to	52	28	99		
Issuance of shares	52	25	99		
Loans on outstanding shares, may make	52	26	99		
Proof of solvency, to furnish secretary of the territory....	52	23	98		
Taxes levied since passage of Ch. 67, L. '01, abated	68	2	127		
BUREAU OF IMMIGRATION—					
Appropriation for incidental expenses	108	8	207		
Appropriation for salary	108	8	205		
BURIAL GROUNDS—					
See "Cemeteries."					
C					
CAPITOL—					
Appropriation for repair	108	8	208		
Employee, appropriation for additional pay, J. R. No. 17 ....	..	..	248		
CAPITOL CUSTODIAN COMMITTEE—					
Appropriation for	108	8	207		
CATTLE—					
Diseases of, Sec. 197, C. L. '97, A	1	1	1		
Not to run at large in unincorporated county seats	25	1	36		
Sale of, by cattle sanitary board	121	1	235		
CATTLE SANITARY BOARD—					
Power to sell cattle, Sec. 223, C. L. '97, A	121	1	235		
Diseased cattle, bond issue by, Sec. 200, C. L. '97, A	1	2	1		
Diseases of cattle, Sec. 197, C. L. '97, A	1	1	1		
CEMETERIES—					
Disturbing remains in, penalty	83	1	150		
CERTIFICATES—					
Teachers, board of education to revoke when	120	2	234		
Teachers, granting of third class	119	3	229		
CHAVES COUNTY—					
Deficiency appropriation for	108	8	211		
Indebtedness due from Roosevelt county	7	5	13		

CHAVES COUNTY—Continued—

	Chap.	Sec.	Pag.
Licenses, proportion to be credited to Roosevelt county.....	7	9	15
Roosevelt county bond sale, to receive proceeds	7	7	14
Sheriff, appropriation for	108	8	208
Tax list to be delivered to commissioners of Roosevelt county	7	10	15
See also "Counties."			

CITIES, INCORPORATED.—

q

See "Corporations, Municipal."

CITY ENGINEERS—

Streets, to estimate cost of improving	42	1	66
----------------------------------------------	----	---	----

CITY OF SANTA FE—

See "Board of Education, City of Santa Fe."

CITY OF SOCORRO—

Officers, election of, Sec. 2, Ch. 9, L. '03, A	113	2	221
-------------------------------------------------------	-----	---	-----

CITY PROCEDURE—

Acequias, appeals from justice of the peace courts	32	10	50
Actions to quiet title, code not to apply to	5	1	9
Appeals and writs of error, Sec. 1, Ch. 82, and Ch. 99, L. '01, R	26	1	36
Attachment, code not to apply to	5	1	9
Attachment of shares of corporations	94	1-2	167
Code not to apply to certain actions, Sub-Sec. 175, Sec. 2685, C. L. '97, A	5	1	9
Depositions—			
Application and publication, Sec. 3052, C. L. '97, A	5	5	10
Manner of taking	122	1-7	236
Notice to parties interested	5	7	10
Secs. 3053, 3054 and 3055, C. L. '97, R	5	6	11
Ejectment, code not to apply to	5	1	9
Eminent domain, code not to apply to	5	1	9
Execution on animals damaging fields	73	3	138
Habeas corpus, code not to apply to	5	1	9
Jurors, selection of	112	1-6	218
Limitations of actions, Sec. 2921, C. L. '97, A	62	1	121
Limitations of actions as to non-residents	62	1	121
Mandamus, code not to apply to	5	1	9
Personal Injury Cases—			
Act not to apply when	33	5	54
Action begun out of territory, injunction may issue	33	4	54
Action dismissed when	33	1	51
Action, when to begin	33	1	51
Action, where to be begun	33	1	51
Affidavit by person injured, contents of	33	1	51
Change of venue when	33	3	53
Compromise of claims	33	66	54
Failure to answer summons	33	2	52
Pleadings	33	2	52
Procedure when action begun out of the territory	33	3	53
Summons, court may issue for person injured	33	2	52
Unlawful to bring action out of the territory	33	3	53
Prohibition, code not to apply to	5	1	9
Quo warranto, code not to apply to	5	1	9
Replevin, code not to apply to	5	1	9
Sale of real estate of infants, code not to apply to	5	1	9
Suits for partitioning real estate, code not to apply to	5	1	9

CLERKS—	Chap.	Sec.	Pag.
City—			
Lien for street improvement, to attest	42	6	67
Street improvements, notice of hearing to be filed.....	42	2	66
Term of office, date of election	9	1-3	21
Term of office, Sec. 1, Ch. 9, L. '03, A	93	1	166
District Court—			
Envelopes containing names of jurors, to file	112	2	219
Envelopes containing names of jurors, opening of	112	3	219
Fees to be collected	108	8	205
Issuance of venires, when	112	3	219
Salary appropriation for	108	8	205
Venires for United States jurors, to issue	112	3	219
Probate, Ex-officio Recorder—			
Apportionment by county superintendent, to file	119	15	232
Bounty on wild animals, application to be made to	80	2	148
Certificate to practice medicine, to record	40	4	62
Corporations to file articles with	114	2	222
Deceased soldiers or sailors, to keep record of	11	2	23
Diploma of osteopaths, to register	90	1	164
Emblem, certified copy to be sent to	59	1	117
Fees for filing emblems	59	1	117
Filing uncertified articles of incorporation, penalty	114	2	222
Fines collected, receipts to be filed with	119	17	232
Foreign corporations to file charter with	65	1	123
Index of records of real property, to make	87	1	154
Lien for street improvement, to record	42	6	67
Mercantile companies to file certificate with	109	1	214
Quay county, to sign bonds	8	6	18
Re-indexing records of real property, fees	87	7	155
Resolution favoring annexation, to be filed with	105	2	193
Roosevelt county, to sign bonds	7	6	14
Trust companies, articles of agreement to be filed	52	2	85
School Boards—			
Compulsory school law, to publish notices	39	2	60
Supreme Court—			
Salary, appropriation for	108	8	205
COAL OIL—			
Inspection, Ch. 64, L. '01, R.	3	1	7
COLFAX COUNTY—			
District attorney, change of salary	12	1	24
See also "Counties."			
COLLECTOR, COUNTY—			
See "Treasurer, County."			
COMMISSIONER OF PUBLIC LANDS—			
Contingent expenses, to file account with auditor	78	6	146
Duties	78	8	147
Leases for improvement of Rio Grande, to cancel	78	7	146
Leases for reservoirs, to cancel	78	7	146
Salary, auditor to draw warrant for	78	6	146
Sale of public lands, to reimburse territory	78	4	145
Territorial treasurer, funds to be paid to	78	5	145

COMMISSIONERS—**Acequias—**

	Chap.	Sec.	Pag.
Apportionment of water	15	1	26
Assessment, may make	44	1	69
Compensation	32	7	50
Drainage, to determine place of opening	85	1	151
Duties, neglect of, penalty	32	9	50
Fatigue work, to assess	32	3	48
Labor by owners, to exempt when	32	5	49
Neglect of duty, penalty	15	4	26
Organization	32	1	46
Records, to keep	32	3	48
Rules, to be furnished mayordomo	15	2	26
Rules, to print and distribute	44	1	69
Treasurer, to give bond	32	1	46
Vacancies, filling of	32	1	46

Territorial Institutions—

Accounts of, governor to approve	2	12	6
Appointment by governor	2	12	6
Compensation	2	12	6
Report, to make to governor	2	12	6
Sites, to select	2	12	6

COMMISSIONS—

Indebtedness due from Luna to Grant county, to adjust	79	1	147
Quay county, to ascertain indebtedness	8	5	17
Roosevelt county, to ascertain indebtedness	7	5	13
Sandoval county, to ascertain indebtedness	27	11	40

COMMITTEES—

Enrolling and engrossing, to make corrections in bills, J.R.No.11 ..	1	244
----------------------------------------------------------------------	---	-----

CONDEMNATION PROCEEDINGS—

Cities, Sub-sec. 92nd., Sec. 2402, C. L. '97, A	41	1	65
Destruction of buildings, compensation	42	8	67
Railroad companies, Sub-div. 2nd., Sec. 3850, C. L. '97, A....	31	1	45
Railroad companies, service how to be made	31	1	45
Unincorporated county seats for roads	91	1	165

CONGRESS, UNITED STATES—

Petition to refund bonded indebtedness of Taos county, J.		
M. No. 4 .....	..	255
Petition to pass good roads law, J. M. No. 8 .....	..	260
Petition to permit erection of drift fences, J. M. No. 5 .....	..	257
Petition to states to request passage of statehood bill, J.M.No.2 ..	..	252

CONSOLIDATION—**Benevolent, Charitable and Scientific Associations—**

Articles to be filed with secretary of territory	22	1	33
Corporations not released from liability	22	1	33
Directors to give written consent	22	1	33
Notice by publication	22	1	33

CONSTABLES—

Fees, execution on damaging animals	73	4	139
Infected baggage, may seize under warrant	103	15	184
Infected persons, may remove under warrant	103	14	183
Nuisances, may abate under warrant	103	9	182

CORPORATIONS—**General—**

Actions against for personal injury, see "Civil Procedure,
Personal Injury Cases,"

CORPORATIONS, GENERAL—Continued			Chap.	Sec.	Pag.
Articles of incorporations, filing with probate clerk	114	2	223		
Articles to be filed with secretary of territory	114	1	223		
Attachment of shares	94	1-2	167		
Building and loan associations, reincorporation, see "Build- ing and Loan Associations."					
Charitable—					
Consolidation	22	1	33		
Fees to be paid by	114	1	223		
New articles to be filed	22	1	33		
Publication of notice	22	1	33		
When may take place	22	1	33		
Free, distribution of	114	3	223		
Fees to be paid by	114	1	223		
Foreign—					
Admission of Sec. 445, C. L. '97, A	65	1	123		
Charter to be filed with secretary of territory	65	1	123		
Failure to comply with law, penalty	65	2	124		
Levy on in attachment of shares	94	1	167		
Powers and liabilities	65	1	123		
Mercantile companies, may carry on banking	109	1-6	214		
Moneyed—					
Officers preventing examination	54	10	107		
Officers to aid traveling auditor in examination	54	7-8	106		
Report, to make to traveling auditor	54	9	106		
Traveling auditor to examine	54	6	106		
Property not conducted for financial gain to be exempt from taxation	51	3	83		
Sanitariums constructed by, exempt from taxation	17	1	27		
Trust companies, see "Trust Companies"	52	1-28	84		
Municipal—					
Annexation of Contiguous Territory:					
Division into wards	105	5	194		
Mayor to call special election	105	2	193		
Mayor to issue proclamation	105	3	194		
Ordinance to be filed with probate clerk	105	2	193		
Petition, how presented	105	1	193		
Petition, to be acted upon	105	1	193		
Special election, mayor to issue proclamation	105	6	194		
Special election, when may be held	105	4	194		
Assessment for street improvement, Sub-Sec. 82nd., Sec. 2402, C. L. '97, R	42	9	68		
Assessment for street sprinkling to be a lien	116	2	224		
Board of health, expenses	103	26	189		
Board of health to regulate nuisances in	103	2	181		
Board of trustees, qualifications	99	1	177		
Buildings may be destroyed	42	8	67		
Condemnation proceedings, Sub-Sec. 92nd., Sec. 2402, C. L. '97, A	41	1	65		
Destruction of buildings, compensation	42	8	67		
District superintendents, term of office	119	16	232		
Garbage, council may provide for collection of	60	1	119		
Garbage collection, council to regulate	60	3	119		
Garbage collection, fees to be paid by house-holder	60	4	120		
Garbage collector, mayor to appoint	60	2	119		
Health officer, may be county health officer	103	25	189		
Incorporation of towns and villages, procedure	111	1-2	217		
Mayors of cities, provisions, Ch. 9, L. '03, extended	36	1	36		

CORPORATIONS, GENERAL—Continued

	Chap.	Sec.	Pag.
Members of council, qualifications	99	1	177
Officers, Sec. 2, Ch. 9, L. '03, A	113	2	221
Officers, election and term of office	9	1-3	21
Officers, health laws to enforce	103	28	190
Ordinances, mayor to approve or disapprove	14	1	25
Ordinances, passage over mayor's veto	14	2	25
Quarantine, may establish	103	32	191
Sewer assessments, Sec. 2, Ch. 72, L. '01, A	96	1	170
Sewers, to issue certificates	96	2	171
Street improvement, assessment against property	42	5	67
Street improvement, assessment lien against property	42	6	67
Street improvement, bids and contract for	42	4	67
Streets—			
City engineer to estimate cost of improvement	42	1	66
May assess cost for sprinkling	116	1	224
May order improvement of	42	1	66
Notice of hearing to be filed with clerk	42	2	66
Notice of hearing to be filed with cler	42	2	66
Owners of abutting property to be allowed hearing..	42	2-3	66
Taxation for water and light purposes, Sec. 1, Ch. 37, L. '99, A	34	1	55
Tax for water and light purposes, may levy	34	1	55
Term officers, Sec. 1, Ch. 9, L. '03, A	93	1	166
Railroad—			
Board of health may pass regulations regarding	103	3	181
Board of health, to have right of entry	103	8	182
Collection of taxes from Santa Fe Pacific Company	18	1-2	29
Condemnation proceedings, service of notice	31	1	45
County refunding bonds in aid of	89	1-13	159
Gage, transportation of prohibited	48	6	77
Sheep, bill of clearance required for shipment	55	4	110

COUNCILS—**Cities—**

Acts of, mayor to endorse	14	1	25
Acts vetoed by mayor, passage of	14	2	25
Annexed territory, to divide into wards	105	5	194
Garbage collection, to pass regulations	60	3	119
Garbage, may provide for collection of	60	1	119
Health laws, to enforce	103	28	190
Petition for annexation, to act upon	105	1	193
Qualifications	99	1	177
Quarantine, may establish	103	32	191
Sewer assessments by	96	1	170
Sewer certificates, to issue	96	2	171
Sprinkling streets, may assess cost	116	1	224
Street improvement, letting of contract	42	4	67
Street improvement, to assess cost against property	42	5	67
Streets, may order improvement of	42	1	66
Streets, to set time for hearing of owners	42	2-3	66

COUNTIES—

Acequia law not to apply to certain counties	32	12	51
Bonded indebtedness, compromise of	95	1-6	168
Commissioners to levy tax for outstanding indebtedness	20	1-3	30
Current expenses, appropriation for, tax levy	108	9	211
Default in raising revenue, duty of auditor	88	9	158
Delinquent taxes to be credited to	54	12	107
District attorney districts	46	1	71
First class, salary of commissioners	101	1	178

COUNTIES—Continued

	Chap.	Sec.	Pag.
Health officers, board of health to appoint	103	22	188
Health officers, qualifications	103	25	189
Health officer to vaccinate school children	103	30	191
Indebtedness due from Torrance county, adjustment of	70	10	134
Infected, board of health may hold special meeting	103	18	184
Infected, quarantine of	103	17	184
Leonard Wood (q. v.) creation .....	..	..	127
Officers not to become surety, penalty	57	1-2	115
Offices to be maintained at county seats	38	1	59
Outstanding indebtedness, not released from taxation	20	1-3	30
Precincts, may be divided into election districts	84	1	151
Quarantine, may establish	103	32	191
Quay (q. v.) creation .....	..	..	16
Quay, Roosevelt and Leonard Wood, fourth class counties	69	14	131
Refunding bonds in aid of railroad construction	89	1-13	159
Roosevelt (q. v.) creation .....	..	..	12
Sandoval (q. v.) creation .....	..	..	37
Tax levy, commissioners failing to make	20	4	31
Torrance, (q. v.) creation .....	..	..	132
Treasurer to pay money to treasurer of county from which territory is taken	20	2	31
Vaccination, health officers to direct	103	21	188
Writs, time and place of return of, to be unchanged	71	5	135
See also "Refunding Bonds."			

COUNTY ASSESSORS—

See "Assessors, County."

COUNTY BOARDS OF HORTICULTURAL COMMISSIONERS—

See "Horticultural Commissioners."

COUNTY COMMISSIONERS—

Appropriation "Court House Repair Fund," levy for	108	11	212
Appropriation Louisiana Purchase Exposition levy	118	10	227
Bernalillo County—			
Election of	27	3	38
Notice of election, to give	27	3	38
To appoint assessor and probate judge	49	1	80
Board of health, expenses of to pay	103	266	189
Bonded indebtedness of counties, to adjust	95	1-6	168
Bounty on wild animals, special levy for	80	1	148
Condemnation of private property in county seats	91	1	165
County refunding bonds, special tax levy	89	5	161
Delinquent taxes, may compromise	54	12	107
Election judges for acequia officers, to appoint	32	11	50
Erection of enclosures for executions, to pay expense	76	1	141
Failure to make tax levy, penalty	20	4	31
Funeral of soldiers and sailors, to pay expense when	11	1	22
Horticultural commissioners, may remove when	107	6	197
Horticultural commissioners, to appoint	107	1	195
Horticultural commissioners, to report to	107	4	197
Horticultural commissioners, vacancies to fill	107	1	195
Index of record of real property, may order	87	1	154
Leonard Wood County—			
Bonds, to issue	69	7	129
Buildings for county offices, to provide	69	3	128
Precincts and school districts to divide into	69	4	128
Levy for road fund, manner of making	110	2	216
May employ attorney to defend county	88	9	158

COUNTY COMMISSIONERS—Continued—

	Chap.	Sec.	Pag.
McKinley county, appropriation for Gallup hospital	108	3	203
Officers failing to make report of fines, to remove	119	17	232
Precincts, may divided into election districts	84	1	151
Quarantine, may establish	103	32	191
Quay county, to create sinking fund	8	7	18
Quay county, to divide into precincts	8	3	17
Quay county, to issue bonds	8	6	18
Refunding commission, to aid	89	8	162
Road fund, may levy special tax	110	1	215
Road fund, to pay out on warrant	110	3	216
Roosevelt County—			
Bonds, to issue	7	6	13
Precincts, to divide into	7	3	13
Sinking fund, to create	7	7	14
Salary horticultural commissioners, to fix	107	5	197
Salary in counties of first class	101	1	178
Sandoval County—			
Bonds, may issue	27	12	41
Commissioner districts, to divide into	50	2	82
Officers, to appoint	50	1	81
Tax levy, for interest and sinking fund	27	13	41
San Miguel county, Tecolote Land Grant, to order election....	77	3	142
Santa Fe county, may levy tax for school purposes	97	2	173
Special levy by sheep sanitary board, to assess	55	9	112
Special tax for jail purposes, may levy	66	1	124
Tax for county index fund, may levy	87	6	155
Tax for territorial purposes, to make	88	9	158
Tax to pay interest on refunding bonds, to levy	89	5	161
Tax to pay outstanding indebtedness, to levy	20	1-3	30
Tax, to raise revenue directed by auditor, to levy	88	8	157
Torrance county, tax levy for bond issue	70	9	134

COUNTY INDEBTEDNESS—

See "Indebtedness."

COUNTY INSTITUTES—

See "Institutes, County."

COUNTY SCHOOL SUPERINTENDENTS—

Apportionment of funds, to furnish newspaper copy of	119	15	232
Bond, failure to give, penalty	100	3	178
Bond, to give	100	1-2	177
Books of boards of directors, to examine	119	11	231
Clerk of board of directors to make report to	119	7-8	230
Copy of apportionment, to file with probate clerk	119	15	232
County institutes, fees to be collected	119	5	229
County seat, when to be in attendance at	119	11	231
County treasurer to notify of funds, Sec. 1548, C. L. '97, A ..	119	19	233
Failure to apportion funds and file reports	100	4	178
Failure to perform duty, penalty	37	5	58
Failure to report, penalty	119	14	231
Free text books to indigent pupils, to take charge of	39	3	60
Petition to use surplus, to forward to county treasurer	37	2	57
Report to superintendent of public instruction	119	14	231
School directors, may remove when	119	13	231
School funds, to apportion	119	15	232
School laws, to receive copies	28	3	44
School laws, violations, to prosecute	119	6	229
Superintendents of city or town schools to report to	119	8	230

COUNTY SCHOOL SUPERINTENDENTS—Continued

	Chap.	Sec.	Pag.
Vaccination of school children, duties	103	29	190
Warrants of school directors, may reject	119	12	231

COUNTY SEATS—

County offices to be maintained at	38	1	59
Leonard Wood county, location	69	3	128
Quay county, location	8	2	17
Roosevelt county, location	7	2	13
Sandoval county, location	50	3	82
Sandoval county, special election to select	27	5	38
Torrance county, location	70	2	133
Unincorporated, cattle not to run at large in	25	1	36
Unincorporated, condemnation proceedings for roads	91	1	165

COURT HOUSES—

Appropriation for "Repair fund"	108	11	212
Leonard Wood county, to issue bonds for	69	8	130
Quay county, issue of bonds for	8	8	19
Roosevelt county, issue of bonds for	7	8	15
Sandoval county, issue of bonds for	27	15	42
Torrance county, issue of bonds for	70	11	134

COURTS—

District—

Abatement of nuisance, may issue warrant for	103	9	182
Acequias, appeal to	32	10	50
Appeals to, writs of error, Ch. 99, L. '01, R	26	1	36
Appropriation for printing rules of	45	7	70
Board of health may make complaint before	103	8	182
Board of trustees Las Vegas grant, to appoint	47	2	73
Board of trustees Las Vegas grant, to control	47	4	73
Buildings, to approve destruction of	42	8	67
Compulsory school law, to charge grand juries	39	3	60
Counties of Rio Arriba, Santa Fe, San Juan and Taos, times of holding court	71	1	135
Counties, terms of court to remain unchanged in	71	5	135
First judicial district, time of holding court	71	1	135
Grand juries, special charge to	119	17	232
Guardian, to appoint	5	3	9
Jurors, may excuse	112	5	220
Jurors, to fill vacancies	112	4	220
Jury commissioners, to, appoint	112	1	218
Juvenile offenders, to send to reform school	2	10	5
Las Vegas grant, acts of court confirmed	47	10	74
Leonard Wood county, time for holding court	69	11	131
Lincoln county, time for holding court	71	3	135
List of those permitted to witness executions, to approve..	76	2	141
McKinley county, time for holding court	71	2	135
Personal injury cases, procedure	33	1-7	51
Quay county, time of holding court	8	11	20
Regulations Las Vegas grant, to make	47	8	73
Roosevelt county, time of holding court	7	11	15
Salary of judges of	108	8	205
Sale of property of infant, to order	5	3	9
Sandoval county, time of holding court	27	9	40
San Miguel county, to manage Las Vegas grant	47	1	72
Terms of in certain counties	71	1	135
Warrant, may issue for removal of infected persons	103	14	183
Warrant, may issue for seizure of infected baggage	103	15	184
Writs returnable at the times and places designated	71	4	135

COURTS—Continued—

Chap. Sec. Pag.

Probate—

Administrators, may require to assign beneficial interests to owner	29	1	44
Assignment of beneficial interests validated	29	2	44
Guardian, may appoint	5	3	9
Safe of property of infant, to order	5	2	9

Supreme—

Appropriation for printing rules of	45	1	70
Practice in, Sec. 1, Ch. 82 and Ch. 99, L. '01, R	26	1	36
Printing and expenses solicitor general, appropriation	108	8	206
Printing dockets and calendars, appropriation for	108	8	206

United States—

Jurors, opening envelopes containing names of	112	3	219
-----------------------------------------------------	-----	---	-----

CRIMES AND OFFENSES—**Acequias—**

Commissioners neglecting duty	32	9	50
Excess water of joint drainage, use of	85	3	152
Excess water, use of without mayordomo's consent	85	2	152
Interference with	44	2	69
Interference with	32	6	49
Officers neglecting duty	15	4	26
Owners failing to work	32	4	49
Owners failing to work	44	4	70
Owners failing to work	85	1	151
Violations, mayordomo failing to prosecute	44	2	69
Adults refusing to be vaccinated	103	31	191
American flag, offering insult to	63	1-2	121
Appeals to board of health, teachers violating	92	2	166
Attachment of shares of corporations, officers refusing to give information	94	2	168
Bounty on wild animals, false affidavit	83	3	149
Burial of soldiers and sailors, false bill	11	4	23
Cemeteries, disturbing remains in	83	1	150
Compulsory school law, failure to comply with	39	2	60
Corporations foreign, not complying with law	65	2	124
County assessors refusing examination of accounts	54	5	105
County officials becoming surety	57	2	115
County refunding bonds, officers refusing to make levy	89	7	162
County treasurers refusing examination of accounts	54	3	105
Deer, killing of	48	16-18	80
Disease, head of family failing to report	103	20	185
Ditch, flume, pipe line or reservoir, injury of	21	1	32
Elk, killing of	48	15	79
Emblems, unlawful use	59	3	118
Fish less than six inches in length, taking of	48	5	76
Fish, killing of by drugs or explosives	48	7	77
Fish, taking more than lawful amount	48	10	78
Fish within appropriated inclosures, taking of	48	14	79
Game and fish, hotels offering to patrons	48	11	78
Game, killing of	48	15	79
Game and fish, selling of	48	6	77
Game and fish, transportation of	48	6	77
Game and fish warden, failure to prosecute violations	48	3	76
Hotel and restaurants failing to secure permits	48	11	79
Indecent exposure of the person	117	1	224
Inspection of sheep, fees not paid	55	7	112
Liquor, sale to Indians	30	2	45
Mayordomo, failing to perform duties	32	8	50

CRIMES AND OFFENSES—Continued—

	Chap.	Sec.	Pag.
Moneyed corporations, refusing to aid traveling auditor	54	8	100
Mountain sheep, killing of	48	15	79
Nuisances, failure to remove	103	6	181
Nuisances, owners of orchards maintaining	107	2	196
Officers moneyed institutions preventing examination	54	10	107
Osteopathy, penalty for practice of medicine	90	1	164
Peddling drugs without license	40	8	63
Persons from infected places, traveling without license	103	13	183
Physicians and justices of the peace failing to report existence of disease	103	19	185
Pipe line or reservoir supplying water for domestic use, injury to ..	21	1	32
Practice of medicine, applicant swearing falsely	40	3	62
Probate clerk, filling uncertified articles of incorporation, penalty ..	114	2	222
Public health, violation of laws	103	24	189
Public roads, obstructing	58	2	116
Railroad companies shipping sheep without bill of clearance..	55	4	110
Screens, failure to maintain for fish	48	8	77
Sheep infected with contagious disease, keeping of	55	8	112
Streams, depositing sawdust in	48	7	77
Timber, cutting on school or public lands	81	1	149
Trout and game food fish, taking of	48	4	7
Trust companies, advertising other than paid up capital	52	9	90
Trust companies, failing to make and publish report	52	11	92
Trust companies, embezzling funds and false entries	52	14	93
Trust companies, refusing to be examined	52	12	92
Vaccination, parents refusing to permit	103	29	190
Water for domestic use, bathing in or befouling	21	2	32

D**DAMAGES—****Fields by Animals—**

Animals to which act shall apply	73	5	139
Appraisalment of	73	1	136
Appraisers, qualifications and duties, compensation	73	2	137
Execution when owner fails to appear, procedure	73	3	138

DEATH PENALTY—**See "Executions."****DECEDENTS' ESTATE—**

Administrators to assign beneficial interest to owner	29	1	44
Beneficial interests assigned validated	29	2	44

DEEDS—

Board of trustees of Las Vegas Grant, to deliver	47	7	73
--------------------------------------------------------	----	---	----

DEER—

Unlawful to kill when, penalty	48	16-18	80
--------------------------------------	----	-------	----

DELEGATE TO CONGRESS—

Vote of thanks to, J. R. No. 2	238
--------------------------------------	----	----	-----

DEPOSITIONS—

Application for taking, publication, Sec. 3052, C. L. '97, A	5	5	10
Commission for taking interrogatories, Sec. 3041, C. L. '97, A ..	122	1	236
Laws to be construed liberally	122	2	236
Manner of taking, Sec. 7, Ch. 82, L. '01, A	122	4	236
May be taken ex parte	122	5	236
Notices to parties interested	5	5	10
Objection after return to court to be in writing	122	6	237
Objections to based on laws of evidence	122	5	236

DEPOSITIONS—Continued—	Chap.	Sec.	Pag.
Objections to, service on opposite party	122	6	237
Officers taking interrogatories, duty, Sec. 3043, C. L. '97, A..	122	3	236
Subpoenas, officer may issue	122	4	236
Time for taking may be postponed	122	4	236
Secs. 3053, 3054 and 3055, C. L. '97, R	5	6	11

DEPUTIES—**Game and Fish Warden—**

Appointment	48	3	75
Compensation	48	3	75
Violations, failure to prosecute	48	3	75
Violations, to prosecute	48	3	75

DEVICES—

See "Emblema."

DISEASES—

Contagious and infectious affecting public health	103	1-33	180
Head of family to report	103	20	185
Justices of the peace to give notice of	103	19	185
Physicians to give notice of	103	19	185

DISTRICT ATTORNEYS—

See "Attorneys, District."

DISTRICT COURTS—

See "Courts, District."

DISTRICT COURT CLERK—

See "Clerk, District Court."

DITCHES—

Unlawful to break or obstruct, penalty	21	1	32
See "Acequias."			

E**EDDY COUNTY—**

Hospital, appropriations for, tax levy	108	3	203
See also "Counties."			

EDUCATIONAL INSTITUTIONS—

Appropriation for support	108	2	199
Officers to file report with superintendent of public instruction	119	18	233
Officers to report to governor	119	18	233
Report of officers(contents	110	18	233

EJECTIONMENT—

Code not to apply to	5	1	9
----------------------------	---	---	---

ELECTION AND RETURNING BOARDS—

Sandoval county, appointment and duties	27	2-6	37
Sandoval county, oath to be filed with secretary of territory..	27	2-6	37

ELECTIONS—

Aldermen, time of, Sec. 3, Ch. 9, L. '03, A	93	2	167
Board of education, time of, Sec. 3, Ch. 9, L. '03, A	93	2	167
Annexation of contiguous territory, special	105	6	194
Annexation of contiguous territory, mayor may call	105	2	193
Annexation of contiguous territory, when not to be held	105	4	194
Appropriation for printing books	108	8	207
Bernalillo county, special	27	3	38
City of Santa Fe, question of bond issue, to decide	97	1	172
City officers, Sec. 2, Ch. 9, L. '03, A	113	2	221
City officers, term of office	9	1-3	21

ELECTIONS—Continued—			Chap.	Sec.	Pag.
Mileage in forwarding returns	108	8	211		
Registration for voting, when not required	64	1-2	122		
Sandoval county, special	27	2-6	37		
Sandoval county, to select county seat	27	5	38		
Secretary of territory, manner of sending returns to	108	8	211		
Torrance county, officers	70	3	133		
Trustees of Tecolote land grant	77	3	142		
ELK—					
Unlawful to kill, when	48	15	79		
ELBALMERS—					
Certificate, to obtain from board of health	103	20	185		
EMBLEMS—					
Adoption by political parties, method of	59	1	117		
American flag may be used as	63	2	122		
Ballots, to be placed on	59	2	118		
Filing of, fees	59	1	117		
To be filed, where and how	59	1	117		
Unlawful use, penalty	59	3	118		
Unlawful use, to whom penalties shall apply	59	3	118		
Sec. 1633, C. L. '97, A	59	1	117		
See "Ballots."					
EMINENT DOMAIN—					
Code not to apply to	5	1	9		
ESPANOLA PRECINCT—					
Santa Fe County—					
Attached to Rio Arriba county	24	1	35		
EXECUTIONS—					
Civil Procedure—					
Animals damaging fields	73	3	138		
Criminal—					
Manner of inflicting, Sec. 1067, C. L. '97, A	76	1	141		
Number who may witness	76	2	141		
EXECUTORS—					
See "Administrators."					

F

FEES—					
Appraisers of damage to fields	73	2	137		
Attendance at county institute	119	5	229		
Auditor, reports and examination of trust companies	52	13	93		
Board of exposition managers	118	3	226		
Board of health	103	27	190		
Board of health, distribution of fees	40	10	64		
Board of horticultural commissioners	107	5	197		
Board of pharmacy, registration	43	1	68		
Board of pharmacy, renewal of certificate	43	1	68		
Board of trustees of Tecolote Land Grant	77	6	143		
Constables, execution on damaging animals	73	4	139		
Corporations, distribution of	114	3	223		
Corporations, to be paid by	114	1	222		
District court clerk, to collect	108	8	205		
Garbage collection	60	4	120		
Inspection of sheep coming into territory	55	3	109		
Inspection of sheep, fees not paid, penalty	55	7	112		

FEES—Continued—

	Chap.	Sec.	Pag.
Inspection of sheep going out of territory	55	4	110
Inspection of sheep, purpose for which used	55	6	111
Justice of the peace, damage to fields by animals	73	4	139
Physician's license	40	7	63
Probate clerk, filing emblems	59	1	117
Probate clerk, re-indexing records of real property	87	7	155
Secretary of the territory, filing emblems	59	1	117
Sheep driven into territory, inspection of	55	5	111

FENCES—

Drift, petition to congress to permit the erection, J. M. No. 5 ..	..	..	257
May be built at sides of public roads	58	1	116

FIELDS, CULTIVATED OR FENCED—**Damage by Animals—**

Animals to which act shall apply	73	5	139
Appointment of appraisers	73	1	136
Appraisers, qualifications and duties, compensation	73	2	137
Execution on animals, procedure	73	3	138

FINES—

Acequias, how disposed of	32	8	50
Acequias, to be applied to school fund	15	4	26
Board of health, distribution	40	10	64
Collection of	119	17	232
Foreign corporations, credited to school fund	65	1	123
Officers, failing to collect and report, penalty	119	17	233
Unlawful use of emblems, distribution of	59	3	119
Violation of school laws, credit to school fund	39	3	60
See "Crimes and Offenses."			

FISCAL YEAR—

Appropriations for 55th extended to 56th	108	5	202
Time of	108	7	204

FISH—

See "Game and Fish."

FLAG—

See "American Flag."

FLUME—

Unlawful to break or obstruct, penalty	21	1	32
----------------------------------------------	----	---	----

FORT MARCY MILITARY RESERVATION—

Petition to president to grant to city of Santa Fe, J. M. No. 3	254
--------------------------------------------------------------------	----	----	-----

FUNDS—

General expenses, fines to be credited to	32	8	50
Temporary Provisional Indebtedness—			
Application of proceeds	108	13	213
Funds to be credited to	108	13	213
See also "Taxes."			

FUNERALS—**Soldiers and Sailors—**

Bill of expenses to be audited	11	3	23
County commissioners to pay expense when	11	1	22
False bill presented, penalty	11	4	23
Who may conduct	11	2	23

G

GALLUP HOSPITAL

	Chap.	Sec.	Pag.
Appropriation, tax levy	108	3	203

GAME—

See "Game and Fish."

GAME AND FISH—

Deer, unlawful to kill when, penalty	48	16-18	80
Ditches or canals, screens to be maintained at	48	8	77
Fish—			
Amount that may be caught in one day, penalty.....	48	10	78
Appropriated waters, fishing within enclosures	48	14	79
Killing by drugs or explosives, penalty	48	7	77
Streams may be appropriated for propagation	48	14	79
Game defined	48	17	80
Game fish defined	48	12	79
Game, unlawful to kill when	48	15	79
Killed in New Mexico, hotels not to offer to patrons	48	11	78
Killed out of territory, hotels to secure permits	48	11	78
Laws, secretary of territory to mail to Indian agents	48	13	79
Laws, secretary of territory to mail postmasters	48	9	78
Laws, to apply to Indians	48	13	79
Railroads forbidden to transport	48	6	77
Sawdust, emptying in streams prohibited	48	7	77
Selling of, unlawful	48	6	77
Trout or Game Food Fish—			
Unlawful to catch them, penalty	48	4	76
Unlawful to take when less than six inches in length	48	5	76
Ch. 51, L. '99, R	48	19	80

GAME AND FISH WARDEN—

Appointment	48	1	75
Bond, to give	48	2	75
Deputies, appointment	48	3	75
Deputies, compensation	48	3	75
Deputies, oath to be filed with	48	3	75
Oaths, to be filed with secretary of territory	48	2	75
Permits to hotels and restaurants, to issue	48	11	78
Salary	48	2	75
Salary, appropriation for	108	8	205
Term of office	48	1	75
Violations, failure to prosecute, penalty	48	3	75

GARBAGE—

City councils may provide for the collection of	60	1	119
City councils to pass rules and regulations	60	3	119
Collector, appointment, salary and duties	60	2	119
Fees to be paid by house-holders for collection of	60	4	120

GEOLOGICAL SURVEY—

Funds transferred to Insane Asylum, Ch. 69, L. '01, R	108	2	201
-------------------------------------------------------------	-----	---	-----

GOVERNOR—

Accounts of commissioners of territorial institutions, to approve	2	12	7
Appropriation for Grant and Luna counties, to appoint board to distribute	108	8	208
Armory boards of control, to appoint	53	1	100
Armory building bonds, to sign	53	8	101
Board of equalization, to appoint additional members	61	1	120
Board of health, to appoint	40	1	61

GOVERNOR—Continued—

Chap. Sec. Pag.

Board of Louisiana Purchase Exposition Managers—

Members, may remove	118	2	226
Report, to make to	118	6-9	226
To appoint	118	1	225
To approve expense account	118	7	227
Vacancies, may fill	118	2	226
Board of regents orphan children's home, to appoint	6	1	11
Board of trustees territorial institutions, to appoint	2	2	4
Bond of treasurer armory boards of control, to approve	53	7	101
Collectors, to remove when	89	8	162
Commission to refund indebtedness, member of	89	1	159
Commissioners territorial institutions, to appoint	2	12	6
Commissioners territorial institutions, to report to	2	12	6
Contingent expenses, appropriation for	108	8	206
County commissioners failing to make tax levy, removal	20	4	31
County commissioners Leonard Wood county, may remove..	69	3	128
County superintendents, may remove when	119	14	232
County superintendents, to remove when	100	3-4	178
District attorney, may remove when	113	1	221
District attorneys, to appoint	46	1	72
Election and returning board Sandoval county, to appoint....	27	2-6	37
Ex-officio member of board of trustees territorial institutions..	2	6	4
Game and fish warden, to appoint	48	1	75
Incorporation of towns, to issue proclamation	111	1	217
Message, printing of, J. R. No. 12 .....	..	..	245
Messenger and doorkeeper, salary appropriation	108	8	205
Officers higher educational institutions, to report to	119	18	233
Officers Leonard Wood county, to appoint	69	5	129
Private secretary, salary appropriation	108	8	205
Quay county officials, to appoint	8	4	17
Quay county officials, to fill vacancies	8	4	17
Reform school, to issue proclamation regarding	2	10	5
Refunding bonds for railroad construction, to sign	89	3	160
Refunding bonds, to approve sale of	67	1	125
Returning board Terrance county, to appoint	70	3	133
Roosevelt county officials, to appoint	7	4	13
Roosevelt county officials, to fill vacancies	7	4	13
Secretary board of health, to report to	40	10	65
Superintendent public instruction to report regarding Ox-			
ford University Scholarships, J. R. No. 13 .....	..	..	245
Traveling auditor, to appoint	54	1	103
Traveling auditor, to make report to	54	2-11	104

GRAND AND PETIT JURORS—

See "Jurors."

GRANT COUNTY—

Appropriation for relief of citizens	108	8	208
Hospital appropriation, tax levy	108	3	203
Indebtedness due from Luna county, adjustment	79	1	147
Luna county treasurer to pay money to	82	1	150
Treasurer to pay certain school money to Luna county	4	1	8

See also "Counties."

GUADALUPE COUNTY—

Assets, to belong to Leonard Wood county	69	6	129
Indebtedness due from Quay county	8	5	17
Indebtedness due from Roosevelt county	7	5	13
Indebtedness, Leonard Wood county to assume	69	6	129
Licenses, proportion to be credited to Roosevelt county	7	9	15

GUADALUPE COUNTY—Continued—

	Chap.	Sec.	Pag.
Officers to have jurisdiction until when	8	13	20
Organizations, Secs. 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611 and 612, C. L. '97, R	69	1	127
Proceeds Quay county bond sale, to receive	8	7	18
Proceeds Roosevelt county bond sale, to receive	7	7	14
Treasurer to deliver list of taxes to commissioners of Roose- velt county	7	10	15
Treasurer to deliver list of taxes to commissioners of Quay county	8	10	20
Unpaid taxes, to pay to Leonard Wood county	69	9	130
See also "Counties."			

GUARDIANS—

Court may issue appointment when	5	3	9
Petition to sell real estate of infants	5	2	9
School, failing to send children to, penalty	39	2	60
Trust companies may act, as	52	5	87

H**HABEAS CORPUS—**

Code not to apply to	5	1	9
----------------------------	---	---	---

HIGHWAYS, PUBLIC—

See "Roads, Public."

HISTORICAL SOCIETY OF NEW MEXICO—

Appropriation for expenses and purchase of relics	108	8	207
---------------------------------------------------------	-----	---	-----

HISTORY OF NEW MEXICO—

Adoption as a text book in common schools	23	1-4	34
Appropriation for preparation	23	2	34
Preparation of	23	1	34
Price to be fixed by territorial board of education	23	4	34
Sale, proceeds of	23	3	34
Territorial board of education to let contract for publication....	23	4	34

HOLIDAYS—

School defined	119	20	233
----------------------	-----	----	-----

HORTICULTURAL COMMISSIONS—

Appointment	107	1	195
Chairman, duties of	107	8	198
Compensation	107	5	197
County commissioners, to report to	107	4	197
Duties and powers as to inspection	107	2	196
Inspectors, compensation	107	5	197
Inspectors, may remove	107	6	197
Inspectors, to appoint	107	3	197
Meetings	107	7	198
Nuisances, when owners of orchards guilty of maintaining	107	2	196
Organization	107	7	198
Records, to keep	107	4	197
Removal, when	107	6	197
Report, failure to make, penalty	107	6	197
Secretary and treasurer to give bond	107	7	198
Secretary, duties of	107	9	198
Term of office	107	1	196
Treasurer, duties of	107	10	198
Vacancies, county commissioners to fill	107	1	195
Warrants for salary, withheld when	107	6	197

HOSPITALS—

Appropriation for	108	3	208
-------------------------	-----	---	-----

HOTELS—

Chap. Sec. Pag.

Game and game fish killed in New Mexico, unlawful to offer to patrons	48	11	78
Permits from game and fish warden, to secure	48	11	78

I**INCORPORATION OF TOWNS AND VILLAGES—**

See "Towns and Villages."

INDEBTEDNESS—

Appropriation for interest on bonded	108	1	199
Bonded, commissioners may compromise	95	1-6	168
Bonded of Laos county, petition to refund, J. M. No. 4 .....	..	..	255
Luna county, commission to adjust	79	1	147
Outstanding, counties not released from taxation	20	1-3	30
Quay county, commission to ascertain amount	8	5	17
Roosevelt county, commission to ascertain amount	7	5	13
Sandoval county, commission to ascertain amount	27	11	40
Temporary provisional indebtedness fund established	108	13	213
Territorial bonded; may be redeemed, Sec. 11, Ch. 90, L. '01, A	67	1	125
Torrance county, to adjust with counties	70	10	134
Torrance county to issue bonds to pay Valencia county	70	9	134

INDEX—**Records of Real Property—**

Commissioners may order	87	1	154
Fees of clerk and recorder for making	87	7	155
Form of records	87	3	154
Form to be standard	87	5	155
Probate clerk to make	87	1	154
Record books to be provided	87	2	154
Tax levy to provide	87	6	155
Town property, manner of indexing	87	4	154

INDIANS—

Game and fish laws to apply to	48	13	79
Sale of liquor to, Sec. 1271, C. L. '97, R	30	1	45
Sale of liquor to, penalty	30	2	45

INFANTS—

Real estate, appointment of guardian to sell	5	3	9
Real estate, petition for sale of, Sec. 2052, C. L. '97, A	5	2	9
Real estate, proceedings for sale of, code not to apply	5	1	9

INJUNCTIONS—

Personal injury cases, court may issue when	33	4	54
---------------------------------------------------	----	---	----

INSPECTORS—

Coal oil, Ch. 64, L. '01, R	3	1	7
Fruit, compensation	107	5	197
Fruit, horticultural commission to appoint	107	3	197
Fruit, removal when	107	6	197
Sheep	55	2-8	109
Sheep, to report to sheep sanitary board	55	4	110

INSTITUTES, COUNTY—

County treasurer to set apart funds for	120	1	234
Course of study, board of education to prescribe	120	2	234
Fees to be collected by county superintendents	119	5	229
Funds for, disbursement of	120	1	234
Two counties may unite to hold	119	4	229
Sec. 1613, C. L. '97, A	119	5	229

INSURANCE—	Chap.	Sec.	Pag.
School buildings, school funds may be used	37	4	58
INTERROGATORIES—			
Commission for taking, Sec. 3041, C. L. '97, A	122	1	236
Duties of officers in taking, Sec. 3043, C. L. '97, A	122	3	236
See also "Depositions."			

J

JAILS—

Leonard Wood county, bond issue for	69	8	130
Quay county, bond issue for	8	8	19
Roosevelt county, bond issue for	7	8	15
Sandoval county, bond issue for	27	15	42
Special tax levy for additional quarters	66	1	124
Torrance county, bond issue for	70	11	134

JUDICIAL DISTRICTS—

Leonard Wood county	69	11	131
Quay county	8	11	20
Roosevelt county	7	11	15
Sandoval county	27	9	40
Torrance county	70	7	133

JURORS—

Envelope containing names, clerk district court to file	112	2	219
Envelope containing names, manner of opening	112	3	219
Jury law to take effect when	112	6	220
Non-attendance, appointment to fill vacancies	112	4	220
Qualifications of, Sec. 11, Ch. 66, L. '99, A	112	5	220
Selection of	112	2	219
Vacancies, filling of, Sec. 9, Ch. 66, L. '99, A	112	4	220
Sec. 5, Ch. 66, L. '99, A	112	3	219

JURY COMMISSIONERS—

Appointment, Sec. 1, Ch. 66, L. '99, A	112	1	218
Qualifications	112	1	218
Selection of grand and petit jurors, Sec. 2, Ch. 66, L. '99, A...	112	2	219

JUSTICE OF THE PEACE—

Abatement of nuisance, may issue warrant	103	9	182
Appeals from in acequia cases	32	10	50
Appraisalment of damage to fields, fees	73	4	139
Appraisers of damaged fields, to appoint	73	1	137
Appraisers of damaged fields to report to	73	1	137
Board of health may make complaint before	103	8	182
Disease, to notify county health officers of	103	19	185
Findings of appraisers of damaged fields, notice of	73	2	137
Warrant, may issue for removal of infected person	103	14	183
Warrant, may issue for seizure of infected baggage	103	15	184

L

LADIES' HOSPITAL, DEMING—

Appropriation, tax levy	108	3	203
-------------------------------	-----	---	-----

LAKES—

Depositing sawdust in, penalty	48	7	77
--------------------------------------	----	---	----

LAND COMMISSION, UNITED STATES—

Compensation and expenses	78	1	144
Duties of locating agent, to prescribe	78	1	144
Locating agent, salary	78	1	144

LAND COMMISSION, UNITED STATES—Continued—			Chap.	Sec.	Pag.
Locating agent, to give bond	78	1			144
Salaries and expenses, how paid	78	2			145
LAND GRANTS—					
Las Vegas—					
Board of trustees, court to appoint	47	2			73
Board of trustees, court to exercise control over	47	4			73
Board of trustees, designation	47	8			73
Board of trustees, organization	47	3			73
Board of trustees, salary	47	6			73
Board of trustees, to give bond	47	5			73
Board of trustees, to lease, sell or mortgage land	47	9			73
Deeds, board of trustees to deliver	47	7			73
District court, acts of confirmed	47	10			74
District court of San Miguel county, to manage	47	1			72
Regulations, district court to make	47	8			73
Tecolote—					
Board of trustees, compensation	77	6			143
Board of trustees, election	77	3			142
Board of trustees, meetings	77	5			143
Board of trustees, organization	77	4			143
Board of trustees, powers	77	5			143
Board of trustees, qualifications	77	2			142
Board of trustees, term of office	77	3			142
Board of trustees, to manage	77	1			142
LANDS—					
Acceptance for institutional purposes	2	5			3
LAS VEGAS LAND GRANT—					
See "Land Grants, Las Vegas."					
LAWS—					
Copies to be furnished legislature, J. R. No. 4 .....	..	..			240
Publication of in newspaper, J. R. No. 10 .....	..	..			244
Publishers to distribute how	108	8			209
Territorial librarian to distribute	108	8			209
Territorial secretary authorized to make corrections, J. R. No. 11 ..	..	2			245
LEASES—					
Improvement of Rio Grande, cancelled	78	7			146
Public lands	78	1-8			144
Reservoir purposes, to be cancelled	78	7			146
LEGISLATIVE DISTRICTS—					
Leonard Wood county	69	12			131
Quay county	8	12			20
Roosevelt county	7	12			16
Torrance county	70	6			133
LEGISLATIVE REPRESENTATION—					
Bernalillo county	27	8			39
McKinley county	27	8			39
Sandoval county	27	8			39
Torrance county	70	6			133
LEGISLATURE—					
Compiled Laws '97 and session laws to be furnished to, J. R. No. 4 ..	..	..			240
Employes and contingent expenses, appropriation, J. R. No. 3 ..	..	..			239
Employes and contingent expenses, appropriation, J. R. No. 6 ..	..	..			241
Employes and contingent expenses, appropriation, J. R. No. 9 ..	..	..			243
Employes and contingent expenses, appropriation, J. R. No. 14 ..	..	..			247

LEGISLATURE—CONTINUED

	Chap.	Sec.	Pag.
Provision for funds in case no appropriation bill is passed	108	12	212
Ten days' pay of officers and clerks, J. R. No. 16 ..	..	..	248

LEONARD WOOD COUNTY—

Assets of Guadalupe county, to belong to	69	6	129
Bond issue for court house and jail purposes	69	8	130
Bonds, indebtedness to issue	69	7	129
Boundaries of	69	2	128
Commissioners, to provide county office buildings	69	3	128
County of the fourth class	69	14	131
County seat, location	69	3	128
Court, time for holding	69	11	131
District attorney, salary	69	11	131
Indebtedness of Guadalupe county, to assume	69	6	129
Judicial district	69	11	131
Legislative district	69	12	131
List of delinquent taxes, to receive from Valencia county	69	10	130
Officers, appointment	69	5	129
Peace officers	69	13	131
Unpaid taxes from Counties of Guadalupe and Valencia	69	9	130
See also "Counties."			

LEVY, TAX—

See "Taxes."

LIBRARIAN, TERRITORIAL—

Archives, to send to library of congress	102	1	179
Laws and reports, to distribute	108	8	209
Legislature, to furnish with copies of laws, J. R. No. 4 ..	..	..	240
Salary, appropriation for	108	8	205

LIBRARIES—**Territorial—**

Appropriation for incidental expenses	108	8	206
Appropriation for purchase of books	108	8	206
Woman's board of trade to construct on land granted	51	2	83

LICENSES—

Board of health to issue to persons coming from infected places	103	13	183
Dealers in merchandise, Sec. 1, Ch. 108, L. '01, A	106	1	194
Guadalupe and Valencia counties, proportion to be received by Leonard Wood county	69	9	130
Peddlers of drugs, fees	40	8	63
Proportion, to be credited to Roosevelt county	7	9	15
Physicians, board to refuse to grant when	40	5	62
Physicians, may be revoked when	40	5	62
Practice of medicine, board of health to grant	40	3	61
Practice of medicine, secretary may grant temporary	40	3	62
Quay county, proportion to be credited to	8	9	19
Unpaid, Chaves and Guadalupe counties	7	10	15
Unpaid, Guadalupe and Union counties	8	10	20
Unpaid, Leonard Wood county to receive from Valencia	69	10	130

LIENS—

Assessment for sprinkling streets to be	116	2	224
Assessment for street improvement, city clerk to attest	42	6	67
Fees for inspecting sheep	55	5	111
Street improvement, may be sold or assigned	42	7	67
Street improvement, to be recorded	42	6	67

LIGHTS—

Municipal corporations may levy tax to construct plant	13	1	24
--------------------------------------------------------------	----	---	----

LIGHTS—Continued—	Chap.	Sec.	Pag.
Penitentiary to furnish capitol and deaf and dumb asylum	108	8	204
Penitentiary may sell to City of Santa Fe	108	8	204
Taxation for by municipal corporations	34	1	55
LIMITATION OF ACTIONS—			
Non-resident debtors not included	62	1	121
LINCOLN COUNTY—			
Time of holding district court	71	3	135
See also "Counties."			
LIQUOR—			
Sale to Indians, penalty	30	2	45
LIVE STOCK—			
Impounding of in unincorporated county seats, Sec. 7, Ch. 47, L. '01, A	25	1	36
LOAN AND TRUST COMPANIES—			
Report, to make to traveling auditor	54	9	106
See also "Trust Companies."			
LOAN ASSOCIATIONS—			
See "Building and Loan Associations."			
LOCATING AGENT—			
United States Land Commission—			
Bond, to give	78	1	144
Duties, commission to prescribe	78	1	144
Salary and expenses	78	1	144
LUNA COUNTY—			
Appropriation for relief of citizens	108	8	208
Grant county to pay certain school moneys to	4	1	8
Indebtedness due Grant county, adjustment	79	1	147
Treasurer to pay money to Grant county	82	1	150
See also "Counties."			

M

MANDAMUS—			
Code not to apply to	5	1	9
MARRIED PERSONS—			
Administrators, married women may act as	35	1	56
MAYORDOMO—			
Bond, to give	32	1	47
Commissioners to furnish rules	15	2	26
Compensation	32	7	50
Competent witness in acequia cases	32	4	49
Drainage, to have charge of	85	1	151
Duties, failure to perform, penalty	32	8	50
Failure to prosecute violations, penalty	44	2	69
Fines, may recover before justice of the peace	32	4	49
Joint drainage, to regulate excess water	85	4	152
Neglect of duty, penalty	15	4	26
Orders of commissioners, to enforce	15	1	26
Report, to make	32	3	48
To require owners to labor	41	4	70
Vacancies, filling of	32	1	47
MAYORS—			
Municipal Corporations—			
Acts of council or board of trustees, to approve or disapprove	14	1	23

MAYORS—Continued—**Annexation of Contiguous Territory—**

	Chap.	Sec.	Pag.
Proclamation, to issue	105	3	194
Special election, to call	105	2	193
Special election, to issue proclamation	105	6	194
Garbage collector, to appoint	60	2	119
Health laws, to enforce	103	28	190
Passage of ordinances over veto of	14	2	25
Provisions, Ch. 9, L. '03, extended	36	1	56
Term of office, Sec. 1, Ch. 9, L. '03, A	93	1	166
Term of office, date of election	9	1-3	21

McKINLEY COUNTY—

Commissioners to expend appropriation for Gallup hospital	108	3	203
Legislative representation	27	8	39
Time of holding district court	71	2	135
Treasurer to collect taxes of Santa Fe Railroad	18	1	29
See also "Counties."			

MEDICAL COLLEGES—

Board of health to punish list of recognized	40	3	62
----------------------------------------------------	----	---	----

MEDICINE—

Practice of	40	1-12	61
See also "Osteopathy."			

MEMORIALS, JOINT—

Petition to congress for authority to refund bonded indebtedness of Taos county, J. M. No. 4 .....	..	..	255
Petition to congress to pass Good Roads Law, J. M. No. 8..	..	..	260
Petition to congress to permit erection of drift fences on public lands, J. M. No. 5 .....	..	..	257
Petition to president to grant Fort Marcy Military Reservation to city of Santa Fe, J. M. No. 3 .....	..	..	254
Petition to senate to pass statehood bill, J. M. No. 1 .....	..	..	250
Relating to protection of American citizens in Mexico, J. M. No. 6 ..	..	..	258
Requesting secretary of interior to segregate certain lands, J. M. No. 7 .....	..	..	259
Requesting states to petition congress to pass omnibus statehood bill, J. M. No. 2 .....	..	..	252

MERCANTILE COMPANIES—

See "Banking, Mercantile Companies."

MERCHANTS—

License tax, Sec. 1, Ch. 108, L. '01, A	106	1	194
-----------------------------------------------	-----	---	-----

MILITARY INSTITUTE—

See "Territorial Institutions."

MILITIA—

Appropriation for maintenance	108	8	211
Appropriation for rent of armories	108	8	211
Armories, construction of	53	1-10	100

MINERS' HOSPITAL OF NEW MEXICO—

See "Territorial Institutions."

MINORS—

Protection of, Sec. 5, Ch. 3, L. '01, A	119	6	229
-----------------------------------------------	-----	---	-----

MISDEMEANORS—

See "Crimes and Offenses."

	Chap.	Sec.	Pag.
MOUNTAIN SHEEP—			
Unlawful to kill when	48	15	79
MUNICIPAL CORPORATIONS—			
Water and light, special tax levy	13	1	24
See "Corporations, Municipal."			

N

NATIONAL GUARD—			
Appropriation for support	108	8	211
NEW MEXICO AGRICULTURAL COLLEGE—			
See "Territorial Institutions."			
NEW MEXICO ASYLUM FOR THE DEAF AND DUMB—			
See "Territorial Institutions."			
NEW MEXICO INSANE ASYLUM—			
See "Territorial Institutions."			
NEW MEXICO INSTITUTE FOR THE BLIND—			
See "Territorial Institutions."			
NEW MEXICO MILITARY INSTITUTE—			
See "Territorial Institutions."			
NEW MEXICO NORMAL SCHOOL, LAS VEGAS—			
See "Territorial Institutions."			
NEW MEXICO NORMAL SCHOOL, SILVER CITY—			
See "Territorial Institutions."			
NEW MEXICO REFORM SCHOOL—			
See "Territorial Institutions."			
NEW MEXICO SCHOOL OF MINES—			
See "Territorial Institutions."			
NEW MEXICO UNIVERSITY—			
See "Territorial Institutions."			

NOTICES—

Appraisement of damage, justice of peace to post	73	2	137
Appropriation of streams for fish	48	14	79
Compulsory school law	39	2	60
Condemnation proceedings	31	1	45
Depositions, taking of	5	5	10
Disease, householder to give	103	20	185
Disease, justice of the peace to give	103	19	185
Disease, physician to give	103	19	185
Quarantine	103	16	184

NUISANCES—

Abatement of, entry under warrant	103	9	182
Board of health to inspect and abate	103	5	181
Board of health to pass regulations regarding	103	2	181
Board of health to remove when	103	7	182
Owners of orchards guilty of maintaining when	107	2	196
Owner or occupant to remove	103	6	181

O

OFFENSES—

See "Crimes and Offenses."

OFFICES, COUNTY—

To be maintained at county seat	38	1	59
---------------------------------------	----	---	----

ORPHAN CHILDREN'S HOME—	Chap.	Sec.	Pag.
See "Territorial Institutions."			
ORPHANS' SCHOOL—			
Santa Fe—			
Appropriation, tax levy	108	3	203
OSTEOPATHY—			
Penalty for practicing surgery or medicine	90	1	164
Practice of, affidavit to be filed	90	1	164
Practice of, requirements	90	1	164
Who entitled to practice	90	1	164
OUTSTANDING INDEBTEDNESS—			
See "Indebtedness."			
OXFORD UNIVERSITY SCHOLARSHIPS—			
Acceptance of, J. R. No. 13			245
P			
PARENTS—			
Failing to send children to school, penalty	39	2	60
Refusing to permit children to be vaccinated, penalty	103	29	190
PARTITION OF REAL ESTATE—			
Code not to apply to	5	1	9
PEDDLERS—			
Drugs, license required	40	8	63
Whom to be considered	16	1	27
Sec. 1, Ch. 74, L. '01, A	16	1	27
PENITENTIARY—			
Appropriation for drilling wells	86	2	153
Appropriation for insurance of buildings	108	7	204
Appropriation for library for	108	7	204
Appropriation for pay of employees and maintenance	108	7	204
Artesian wells, superintendent to purchase materials	86	1	153
Commissioners, deficiency appropriation for salary	108	8	210
Convicts to construct road from Las Vegas to Santa Fe	56	2	114
Funds to be transferred to account of	19	1	29
Lights, may sell to city of Santa Fe	108	7	204
Lights, to furnish deaf and dumb asylum and capitol	108	7	204
Salary of board, appropriation for	108	7	205
School buildings at Santa Fe, to furnish labor	97	4	174
Superintendent to have charge of construction of road	56	3	115
PERPETUATING TESTIMONY—			
See "Depositions."			
PETROLEUM—			
Inspection of, Ch. 64, L. '01, R	3	1	7
PERSONAL INJURY—			
See "Civil Procedure, Personal Injury."			
PHARMACY—			
See "Board of Pharmacy."			
PHYSICIANS—			
Board of health, to compose	40	1	61
Board of health, to notify of disease	103	19	185
County health officer, may be appointed as	103	22	188
Examination of teachers, duty when applicant found to be afflicted with tuberculosis	92	1	165

	Chap.	Sec.	Pag.
PHYSICIANS—Continued—			
False swearing, penalty	40	3	61
rees to be paid	40	7	63
License may be refused or revoked	40	5	62
License, penalty for not obtaining	40	9	64
Licenses, to be recorded	40	4	62
License, to obtain	40	3	61
Sec. 3, Ch. 18, L. '01, R	40	12	65
PIPE LINES—			
Unlawful to break or obstruct, penalty	21	1	32
PLAINTIFF IN ERROR—			
Rights of, Ch. 99, L. '01, R	26	1	36
POLICE IN UNINCORPORATED COUNTY SEATS—			
Live stock, impounding of, Sec. 7, Ch. 47, L. '01, A	25	1	36
PRACTICE—			
Supreme and district courts, Sec. 1, Ch. 82, and Ch. 99, L. '01, R26		1	36
PRECINCTS—			
Bernalillo county, officers	27	10	40
County commissioners may divide into election districts	84	1	151
Espanola attached to Rio Arriba county	24	1	35
Infected, quarantine of	103	17	184
Leonard Wood county, commissioners to divide into	69	4	128
Officers of precinct attached to Rio Arriba county	24	2	35
Quay county	8	3	17
Roosevelt county	7	3	13
Sandoval county, officers	27	10	40
Torrance county	70	5	133
PRESIDENT OF UNITED STATES—			
Petition to grant Fort Marcy Military Reservation to city of Santa Fe. J. M. No. 3 .....		..	254
Petition relating to protection of American citizens in Mexico, J. M. No. 6 .....		..	258
PRINTING AND TRANSLATING—			
Appropriation for	108	8	207
Governor's message in English and Spanish, J. R. No. 12....		..	245
Report of superintendent of public instruction, J. R. No. 5....		..	240
Rules of supreme and district courts, appropriation	45	1	70
Rules supreme and district courts, clerk to approve bills	45	2	71
Rules of supreme and district courts, contracts for	45	2	71
Spanish, rules, reports, etc., J. R. No. 7 .....		..	242
PROBATE CLERKKS—			
See "Clerks, Probate."			
PROBATE COURTS—			
See "Courts, Probate."			
PROBATE JUDGE—			
Bernalillo county, commissioners to appoint	49	1	81
Bernalillo county, election of	27	3	38
PROHIBITION—			
Code not to apply to	5	1	9
PROSTITUTION—			
Violations, officers to prosecute, Sec. 5, Ch. 84, L. '01, A	113	1	221
PUBLIC HEALTH—			
See "Board of Health."			

PUBLIC INSTITUTIONS—

Chap. Sec. Pag.

See "Territorial Institutions."

PUBLIC LANDS—

Funds for leasing to be credited to institutions	78	5	145
Leases cancelled	78	7	146
Petition to congress to permit erection of drift fences on, J. M. No. 5 .....	..	..	257
Sale, credit to institutions	78	4	145
Sale to pay expense of U. S. Land Commission	78	2	145
Sale to reimburse territory	78	4	145
San Juan county, petition to secretary of interior to segregate, J. M. No. 7 .....	..	..	259
Timber, cutting of, penalty	81	1	149
Sec. 32, Ch. 69, L. '01, A	78	4	145

PUBLIC SCHOOLS—

See "Schools, Public."

Q**QUARANTINE—**

Contagious diseases, notice of	103	16	184
Counties and municipal corporations may establish	103	32	191
Infected precincts or counties	103	17	184

QUAY COUNTY—

Bond issue, court house purposes	8	8	19
Bond issue, current expenses	8	8	19
Bond issue, district attorney to approve	8	6	18
Bond issue, jail purposes	8	8	19
Bond sale, Guadalupe and Union counties, to receive proceeds of	8	7	18
Boundaries	8	1	17
Commission, to ascertain indebtedness	8	5	17
County of fourth class	69	14	131
County officials, appointment of	8	4	17
County seat	8	2	17
District attorney, salary	8	11	20
Judicial district	8	11	20
Legislative district	8	12	20
Licenses, proportion to be credited to	8	9	19
Officers of Guadalupe and Union counties to have jurisdiction until when	8	13	20
Officers, term of office	8	4	17
Precincts, to be divided into	8	3	17
School funds to be credited to	8	9	19
Sinking fund, creation	8	7	18
Term of court	8	11	20
Unpaid taxes and licenses	8	10	20
Unpaid taxes, to credit on indebtedness	8	9	19

QUO WARRANTO—

Code not to apply to	5	1	9
----------------------------	---	---	---

R**RAILROAD COMPANIES—**

Board of health, may pass regulations regarding cars	103	3	181
Board of health, to have right of entry	103	8	182
Collection of taxes from Santa Fe Pacific company	18	1-2	29
Condemnation proceedings, service how made	31	1	45
County refunding bonds in aid of	89	1-13	159
Sheep, shipping without bill of clearance, penalty	53	4	110
Transportation of game prohibited	48	6	77
See also "Refunding Bonds."			

REAL ESTATE

	Chap.	Sec.	Pag.
Conveyance by decree of court	5	4	10
Index of Records—			
Bonds to be provided	87	2	154
Commissioners may order	87	1	154
Fees of clerk and recorder for re-indexing	87	7	155
Form of	87	3	154
Form to be standard	87	5	155
Probate clerk to make	87	1	154
Tax levy to provide for	87	6	155
Town lands, manner of indexing	87	4	154
Infants, decree of court to sell when	5	3	9
Infants, petition for sale	5	2	9
Infants, Sec. 2052, C. L. '97, A	5	2	9
Infants, Sec. 2053, C. L. '97, A	5	3	9
Sale of, code not to apply to	5	1	9
Trust companies may purchase or lease when	52	20	96
Sec. 10, Ch. 62, L. '01, A	5	4	10

RECEIVERS—

Trust companies, duties and compensation	52	15	93
Trust companies may act as	52	5	87

RECOGNIZANCES—

Time and place of return of in counties named	71	4	135
Time and place of return of to remain unchanged	71	5	135

RECORDERS—

See "Clerks, Probate and Ex-officio Recorders."

REFUNDING BONDS—

County in aid of Railroad Construction—			
Amount refunded, statement to be filed	89	4	160
Auditor to transmit rate of levy to county commissioners	89	9	162
Commission created to refund	89	1	159
Commission to compromise indebtedness	89	2	160
Commissioners failing to make levy for	89	8	162
County to pay expense	89	12	163
Deficiency in interest fund	89	6	161
Form, rate of interest, maturity	89	3	160
Governor to sign	89	3	160
Interest on, tax levy to pay	89	5	161
Payment of principal and interest	89	3	160
Payment of principal and interest when county formed	89	10	163
Refunding bonds and coupons to be returned to territorial treasurer	89	11	163
Refunding commission, county commission to aid	89	8	162
Refusal of county officers to make levy	89	7	161
Sinking fund, annual tax levy for	89	5	161
Statement of amount refunded, treasurer to send to county officers	89	4	160
Territorial treasurer to sign	89	3	160
Upon final payment to be returned to county	89	11	163
Territorial, issue of, Sec. 11, Ch. 90, L. '01, A	67	1	125

REGISTRATION—

Name of qualified voter omitted, may vote when	64	2	122
When not required	64	1	122
Secs. 1701 and 1706, C. L. '97, A	64	1-2	122

RELIEF SOCIETY, LAS VEGAS—

Appropriation, tax levy	108	3	203
-------------------------------	-----	---	-----

	Chap.	Sec.	Pag.
REPEALS—			
See special index, ante			
REPLEVIN—			
Code not to apply to	5	1	9
REQUISITIONS—			
Deficiency appropriation	108	8	210
RESERVOIRS—			
Lease of lands for, applications not received	78	7	146
Leases of public lands for, cancelled	78	7	146
Supplying water for domestic use, injury to	21	1	32
RESOLUTIONS, JOINT—			
Accepting Oxford University scholarships, J. R. No. 13....	..	..	245
College of Agriculture and Mechanic Arts, inspection of, J. R. No. 8 ..	..	..	243
Delegate to congress, vote of thanks to, J. R. No. 2 .....	..	..	238
Employees and contingent expenses of legislature, payment of, J. R. No. 3 .....	..	..	239
Employees and contingent expenses of legislature, payment of, J. R. No. 6 .....	..	..	241
Employees and contingent expenses of legislature, payment of, J. R. No. 9 .....	..	..	243
Employees and contingent expenses of legislature, payment of, J. R. No. 14 .....	..	..	247
Governor's message, printing of, J. R. No. 12 .....	..	..	245
Institutions inspection committee, appropriations, J. R. No. 15 ..	..	..	247
Laws, publication in newspapers, J. R. No. ....10.....	..	..	244
Legislature, appropriation for ten days' pay of officers, J. R. No. 16 ..	..	..	248
Legislature, furnishing Compiled Laws '97 and Session Laws, J. R. No. 4 .....	..	..	240
Regular capitol employees, additional pay, J. R. No. 17 .....	..	..	238
Report of superintendent of public instruction, deficiency ap- propriation, J. R. No. 5 .....	..	..	240
Secretary and engrossing committee authorized to make cor- rections in bills, J. R. No. 11 .....	..	..	244
Senators of congress, vote of thanks to, J. R. No. 1 .....	..	..	238
Spanish printing, J. R. No. 7 .....	..	..	242
RESTAURANTS—			
Game fish and game killed in New Mexico, unlawful to offer to patrons	48	11	78
Permits from game and fish warden, to secure	48	11	78
RETURNING BOARDS—			
Torrance county, appointment and duties	70	3	133
REVENUE—			
Apportionment of, auditor to use data of board of equalization ..	88	8	157
Auditor to apportion	88	8	157
Legislative assemblies to make specific appropriations	88	7	157
Territorial, duty of county commissioners in making levy	88	9	158
RIO ARRIBA COUNTY—			
Espanola precinct of Santa Fe county attached to	24	1	35
Precinct officers of precinct attached	24	2	35
Time of holding district court	71	1	135
See also "Counties."			
RIO GRANDE—			
Acequia law not to apply to	15	5	27
Leases for improving, cancelled	78	7	146
Lease of lands for improvement, applications not to be received ..	78	7	146

ROADS, PUBLIC—

	Chap.	Sec.	Pag.
Commissioners may levy tax to create fund	110	1	215
Good roads law, petition to congress to pass, J. M. No. 8.....	..	..	260
Obstructing, penalty	58	2	116
Post, declared public	58	1	116
Road fund, county commissioners to pay out	110	3	216
Santa Fe to Las Vegas—			
Appropriation for construction	56	2	114
Appropriation for construction	108	8	209
Engineer to survey route.....	56	3	115
Established	56	1	114
Penitentiary labor, use of	56	2	114
Superintendent penitentiary to have charge of construction	56	3	115
Sides of may be fenced	58	3	116
Tax levy to create fund, manner of making	110	2	216
Unincorporated county seats, condemnation proceedings	91	1	165

ROOSEVELT COUNTY—

Bond issue, court house purposes	7	8	15
Bond issue, current expenses	7	8	15
Bond issue, jail purposes	7	8	15
Bond sale, Chaves and Guadalupe counties to receive proceeds	7	7	14
Bonds, district attorney Chaves county to approve	7	6	13
Boundaries	7	1	12
Commission to ascertain indebtedness of	7	5	13
County officials, appointment of	7	4	13
County of fourth class	69	14	131
County seat	7	2	13
District attorney, salary	7	11	15
Judicial district	7	11	15
Legislative district	7	12	16
Licenses, proportion to be credited to	7	9	15
Officers of Chaves and Guadalupe counties to have jurisdiction until when	7	13	16
Officers, term of office	7	4	13
Precincts, to be divided into	7	3	13
Sinking fund, creation	7	7	14
Term of court	7	11	15
Unpaid taxes and licenses	7	10	15
Unpaid taxes, to credit on indebtedness	7	9	15.
See also "Counties."			

S**SAFETY VAULTS—**

Rent of box, procedure for collection of	52	4	86
Trust companies may control	52	4	86

SAILORS—

County commissioners to pay expenses of funeral, when	11	1	22
Deceased, probate clerk to keep record	11	2	23

SALARIES—

Assistant secretary of territory	75	1	140
Board of trustees Las Vegas Grant	47	6	73
County Commissioners in counties of first class	101	1	178
District attorneys	46	2	72
District attorney Colfax and Union counties	12	1	24
District attorney Leonard Wood county	69	11	131
District attorney Quay county	8	11	20
District attorney Roosevelt county	7	11	16
District attorney Sandoval county	27	9	40

SALARIES—Continued—

	Chap.	Sec.	Pag.
Game and fish warden	48	2	75
Garbage collectors	60	2	119
Locating agent United States Land Commission	78	1	144
Sandoval county officers	27	7	39
Torrance county, officers	70	4	133
Traveling auditor	54	1	103
United States Land Commission, how paid	78	2	145
Appropriations for—			
Adjutant general	108	8	205
Auditor and clerk	108	8	205
Board of equalization	108	8	205
Clerk of supreme court	108	8	205
District attorneys	108	8	205
District court clerk	108	8	205
District judges	108	8	205
Game and fish warden	108	8	205
Governor's messenger and doorkeeper	108	8	205
Librarian	108	8	205
Penitentiary board	108	8	205
Private secretary to governor	108	8	205
Secretary of bureau of immigration	108	8	205
Solicitor general	108	8	205
Superintendent of public instruction and clerk	108	8	205
Treasurer and clerk	108	8	205

SANDOVAL COUNTY—

Bernalillo county, election of officers, Sec. 3, Ch. 27, L. '03, A	49	1	80
Bond issue by county commissioners	27	12	41
Bond issue court house purposes	27	15	42
Bond issue, current expenses	27	15	42
Bond issue, jail purposes	27	15	42
Bond sale, Bernalillo county to receive proceeds of	27	13	41
Boundaries	27	1	37
Commissioners to divide into commissioner districts	50	2	82
County commissioners to appoint officers	50	1	81
County of the third class	27	7	39
County seat, election for the selection	27	5	38
County seat, location	50	3	82
District attorney, appointment and salary	27	9	40
Election and returning board, appointment and duties	27	2-6	37
Election and returning board, registration lists	27	2-6	37
Indebtedness, commission to ascertain amount	27	11	40
Judicial districts	27	9	40
Legislative representation	27	8	39
Licenses issued by Bernalillo county, adjustment of	27	14	42
Officers	27	2	37
Officers, election of, Sec. 2, Ch. 27, L. '03, A	50	1	81
Precincts and precinct officers	27	10	40
Registration lists, special election	27	4	38
Salary of officers	27	7	39
School districts and officers	27	10	40
Special election	27	2-6	37
Tax to pay interest and create sinking fund	27	13	41
Taxes in Bernalillo county unpaid, to receive	27	14	42
Time of holding court	27	9	40
See also "Counties."			

SANITARIUMS—

Exemption from taxation	17	1	27
-------------------------------	----	---	----

	Chap.	Sec.	Pag.
SANITARY BOARD, CATTLE—			
See "Cattle Sanitary Board."			
SANITARY BOARD, SHEEP—			
See "Sheep Sanitary Board."			
SAN JUAN COUNTY—			
Petition to secretary of interior to segregate certain public lands in, J. M. No. 7 .. .. .	..	..	259
Time of holding district court	71	1	135
See also "Counties."			
SANTA FE, CITY OF—			
See "Board of Education, City of Santa Fe."			
SANTA FE COUNTY—			
Espanola precinct added to Rio Arriba county	24	1	35
Time of holding district court	71	1	135
See also "Counties."			
SANTA FE RAILROAD—			
Taxes, distribution of by collectors	18	2	29
Taxes, payment of	18	1	29
SAVINGS BANKS—			
See "Banks, Savings."			
SAVINGS AND LOAN ASSOCIATIONS—			
See "Building and Loan Associations."			
SCHOOL BUILDINGS—			
Erection of in city of Santa Fe	97	1-7	172
Insurance of	37	4	58
Surplus in general school fund may be used to construct	37	1	57
Surplus insufficient to complete	37	3	58
SCHOOL DIRECTORS—			
Compulsory school attendance, duties regarding	39	1	59
Duty, failure to perform, penalty	37	5	58
General school fund, may issue surplus when	37	1	57
Indigent pupils, to supply with books	39	2	60
School building, to insure	37	4	58
School laws to be furnished to	28	3	44
Special tax, may levy, Sec. 1543, C. L. '97, A	74	1	140
Surplus, duty when insufficient to complete buildings	37	3	58
Surplus, to keep proper account of	37	2	57
Tax, may levy, Sec. 1534, C. L. '97, A	72	1	136
SCHOOL DISTRICTS—			
Bernalillo county	27	10	40
Clerk to post and publish notice of compulsory school law	39	2	60
Directors may use surplus in general fund when	37	1	57
Quay county, appointment of officers	8	3	17
Roosevelt county, appointment of officers	7	3	13
Sandoval county, officers	27	10	40
Surplus in general fund, petition by voters to use	37	2	57
Torrance county	70	5	133
SCHOOL FUNDS—			
Delinquent taxes to be credited to	54	12	107
Fines, one-half to be credited to	32	8	50
Surplus, directors may use when	37	2	57
Surplus insufficient to complete buildings	37	3	58
Surplus, school directors to keep proper account of	37	2	57
Surplus, treasurer of county to notify school directors	37	2	57
Use to insure school buildings	37	4	58

SCHOOL LANDS—

	Chap.	Sec.	Page
Rental of, board of education to receive compensation from..	120	3	213
Timber, cutting of, penalty	81	1	149

SCHOOL LAWS—

Appropriation for compilation	28	2	41
Copies to be furnished county school superintendents	28	3	44
School directors to receive copies of	28	3	44
Superintendent of public instruction to compile	28	1	43

SCHOOLS—

Orphans, appropriation, tax levy	108	3	203
Public—			
Appropriations, tax levy	108	10	212
Compulsory school attendance, Sec. 1555, C. L. '97, A	39	1	59
Compulsory school law; clerks to publish notice	39	2	60
County superintendents, superintendents of city or town			
schools to report to	119	8	230
County superintendents, when to be at county seat.....	119	11	231
Directors, clerk to report to county superintendent	119	7-8	230
Directors, duties of, Sec. 1535, C. L. '97, A	119	10	231
Directors failing to make complete census, penalty	119	13	231
Directors may be removed when	119	2	229
Directors may levy a special tax, Sec. 1543, C. L. '97, A..	74	1	140
Directors prohibited from being party to contract	119	7	230
Directors, tax levy by, Sec. 1534, C. L. '97, A.....	72	1	136
Directors to furnish itemized accounts with vouchers	119	9	231
Directors to let contracts	119	7	230
Directors, when to meet	119	11	231
District superintendents, directors to prescribe duties..	119	16	232
District superintendents, term of office, duties	119	16	232
Elections, directors to post notice, Sec. 11, Ch. 80, L. '99, A	119	2	229
Legal holidays may be observed when	119	20	233
Pupils, compulsory attendance, Sec. 1555, C. L. '97, A ...	39	1	59
Pupils, indigent, books to be supplied to	39	2	60
Pupils, protection of, Sec. 5, Ch. 3, L. '01, A	119	6	229
Pupils, protection of, Ch. 43, L. '01, A	92	1-2	165
Pupils, vaccination of	103	29	190
School funds, county treasurers to notify county super-			
intendents of	119	19	233
School funds, fines collected to be credited to, Sec. 1548,			
C. L. '97, A	119	17	232
School year	119	1	229
Teachers, appeal to board of health	92	1-2	165
Teachers, afflicted with tuberculosis	92	1	165
Teachers' certificates, Sec. 2, Ch. 27, L. '01, A	119	10	231
Teachers failing to make report, penalty	119	14	231
Teachers, granting of third class certificates to	119	3	229
Vaccination of school children	103	29	190
Warrants of school directors, may be rejected	119	12	231

SECRETARY OF THE INTERIOR—

Petition to requesting segregation of lands in San Juan county,			
J. M. No. 7			259

SECRETARY, TERRITORIAL—

Assistant, to appoint	75	1	140
Appropriation for contingent expenses	108	8	208
Appropriation for printing session laws	108	8	207
Armory building bonds, to affix seal to	53	8	101
Auditor, traveling to transfer documents to	54	9	106
Bond of secretary and treasurer of trustees territorial insti-			
tutions to be filed with	2	6	4

SECRETARY, TERRITORIAL—Continued—

	Chap.	Sec.	Page
Bond treasurer armory boards of control, to be filed with....	53	7	101
Building and loan associations to furnish proofs of solvency to	52	23	98
Commission to refund indebtedness, a member of	89	1	159
Consolidation, new articles of incorporation to be filed with	22	1	33
Copies of legislative bills, to send to newspapers, J. R. No. 10 ..	..	..	244
Corporations, fees to be paid by	114	1	222
Corporation fees, distribution of	114	3	223
Corporation to file certificates with	114	1	222
Corrections in bills, authorized to make, J. R. No. 11 .....	..	2	245
Election returns, manner of sending to	108	8	211
Emblems to be filed with	59	1	117
Fees for filing emblems	59	1	117
Foreign corporations to file charter and certificate with	65	1	123
Game and fish laws, to mail to Indian agents	48	13	79
Game and fish laws, to mail to postmasters	48	9	78
Lands for erection of armories, deeds to be deposited with	53	10	102
Laws, to distribute	108	8	207
Mercantile companies doing banking business to file certificate with	109	1	214
Oath of game and fish warden, to be filed with	48	2	75
Printing and distribution of governor's message, J. R. No. 12.. ..	..	..	245
Registration lists, to send to returning board of Sandoval county	27	2-6	37
Returning board of Sandoval county, oath to be filed with....	27	2-6	37
Translation of laws and journals, to direct	108	8	207
Trust companies, articles of agreement to be filed with	52	2	85
Trust companies, directors to file affidavit with	52	9	90
Assistant—			
Appointment	75	1	140
Bond, to give	75	1	140
Oath, to take	75	1	140
Powers	75	2	141
Salary	75	1	140

SENATE, UNITED STATES CONGRESS—

Petition to pass statehood bill, J. M. No. 1 .....	..	..	250
Vote of thanks to, J. R. No. 1 .....	..	..	238

SEWERS—

Assessments, Sec. 2, Ch. 72, L. '01, A	96	1	170
Issuance of sewer certificates	96	2	171
Time of payment of assessments, Sec. 5, Ch. 72, L. '01, A	96	2	171

SHEEP—

Coming into territory, inspection of	55	3	109
Driven into territory for grazing, inspection	55	5	111
Going out of territory, bill of sale required	55	44	110
Going out of territory, inspection and fees	55	4	110
Infected with contagious disease, penalty for keeping	55	8	112
Inspection fees, failure to pay, penalty	55	7	112
Inspection fees, purposes for which used	55	6	111
Inspection fees to be lien a on	55	5	111
Inspection of, Ch. 33, L. '99, A	55	2	109
Inspection, when not required	55	2	109
Shipped out of territory, bill of clearance required	55	4	110

SHEEP SANITARY BOARD—

Special tax, may levy	55	9	112
Tax levy by	108	11	212
Sec. 160, C. L. '97, A	55	1	109
Sec. 168, C. L. '97, R	55	10	113
Sec. 21, Ch. 33, L. '99, R	55	10	113

SHERIFFS—

Chap. Sec. Pag.

County—

Appropriations for transporting prisoners	108	8	210
Bernalillo county, appropriation	108	8	210
Chaves county, appropriation	108	8	208
Chaves county, deficiency appropriation	108	8	211
Clerk district court to issue venires to for jurors	112	3	219
Colfax county, appropriation	108	8	210
Dona Ana county, appropriation	108	8	210
Eddy county, appropriation	108	8	210
Execution of criminals, to conduct privately	76	1	141
Grant county, appropriation	108	8	210
Guadalupe county, appropriation	108	8	210
Guards to transport prisoners	108	8	210
Infected baggage, may seize under warrant	103	15	184
Infected persons, may remove under warrant	103	14	183
Lincoln county, appropriation	108	8	210
Luna county, appropriation	108	8	210
Mora county, appropriation	108	8	210
Nuisance, may abate under warrant	103	9	182
Otero county, appropriation	108	8	211
Requisitions, appropriation for execution	108	8	210
Requisitions, appropriations for serving	108	8	210
Rio Arriba county, appropriation	108	8	210
San Miguel county, appropriation	108	8	210
Santa Fe county, appropriation	108	8	210
Sierra county, appropriation	108	8	210
Socorro county, appropriation	108	2	210
Transporting prisoners to penitentiary, appropriation....	108	8	207
Union county, appropriation	108	8	210

SILVER CITY—

Appropriation for relief of	108	8	209
-----------------------------------	-----	---	-----

SISTERS' HOSPITAL, ALBUQUERQUE—

Appropriation, tax levy	108	3	203
-------------------------------	-----	---	-----

SISTERS OF LORETTO, TAOS—

Appropriation, tax levy	108	3	203
-------------------------------	-----	---	-----

SISTERS OF MERCY HOSPITAL—

Appropriation, tax levy	108	3	203
-------------------------------	-----	---	-----

SOCORRO, CITY OF—

Officers, election of, Sec. 2, Ch. 9, L. '03, A	113	2	221
-------------------------------------------------------	-----	---	-----

SOLDIERS—

County commissioners to provide expense of funeral	11	1	23
Deceased, probate clerk to keep record of	11	2	23

SOLICITOR GENERAL, TERRITORIAL—

Expenses of, appropriation	108	8	206
Indebtedness of Sandoval county, to adjust	27	11	40
Indebtedness of Quay county, to adjust	8	5	17
Indebtedness of Roosevelt county, to adjust	7	5	13
Lands for erection of armories, to approve title	53	10	102
Lands for institutions, to approve title	2	2-3	2
Salary, appropriation for	108	8	205
Trust companies, when may bring action against	52	15	93

STATEHOOD—

Appropriations for expenses of committees	108	8	209
Petition to senate to pass statehood bill, J. M. No. 1.....	..	..	250

STATEHOOD—Continued—

	Chap.	Sec.	Pag.
Petition to states to request congress to pass bill, J. M. No. 2	252
Vote of thanks to senators who supported bill, J. R. No. 1....	238

STREAMS—

Appropriation of or propagating fish, how made	48	14	79
Depositing sawdust in, penalty	48	7	77

STREETS—

Assessment for improving, Sub-sec. 82nd., Sec. 2402, C. L. '97, R ..	42	9	68
Assessment for sprinkling to be a lien	116	2	224
City engineer, to estimate cost of improving	42	1	66
Improvement, assessment against abutting property	42	5	67
Improvement, assessment a lien against property	42	6	67
Improvement, letting of contract for	42	4	67
Improvement, notice of hearing to be filed	42	2	66
Improvement, owners of property to be allowed hearing	42	2-3	66
Lien for improvement, may be sold or foreclosed	42	7	67
Municipal corporations may order improvement of	42	1	66
Notice and publication of hearing	42	2	66
Sprinkling of, city councils may assess cost	116	1	224
Unincorporated county seat, condemnation proceedings	91	1	165

ST. VINCENT'S HOSPITAL—

Appropriation, tax levy	108	3	203
-------------------------------	-----	---	-----

SUBPOENAS—

Depositions, officer may issue	122	4	236
Time and place of return in counties named	71	4	135
Time and place of return to remain unchanged	71	5	135

SUMMONS—

Personal injury cases	33	2	52
Time and place of return in counties named	71	4	135
Time and place of return to remain unchanged	71	5	135

SUPERINTENDENT OF COUNTY SCHOOLS—

See "County Superintendent of Schools."

SUPERINTENDENT OF PUBLIC INSTRUCTION—

Applicant for teacher's certificate found to be afflicted with tuberculosis, duty	92	1	165
Appropriation for contingent expenses	108	8	207
Appropriation for printing school laws	28	2	43
Clerk, appropriation for salary of	108	8	205
County superintendent, may suspend when	119	14	232
County superintendent to report to, contents of	119	14	231
Expenses of, deficiency appropriation for	108	8	211
Indebtedness of Luna county, to ascertain	79	1	147
Officers of higher educational institutions to report	119	18	233
Oxford University scholarships, records and report to governor, J. R. No. 13 .....	..	..	245
Printing report of, deficiency appropriation, J. R. 5 .....	..	..	240
Salary, appropriation for	108	8	205
School laws, to compile	28	1	43
School laws, to send copies to county superintendents.....	28	3	44
School laws, to send to school directors	28	3	44

SUPERINTENDENTS—

Acequias or Ditches—

See "Mayordomos."

SUPREME COURT—

See "Court, Supreme."

SUPREME COURT CLERK—

Chap. Sec. Pag.

See "Clerk, Supreme Court."

SURETIES—

County officers not to become 57 1-2 115

SURVEYS—

Geological—

Funds transferred to insane asylum, Ch. 69, L. '01, R 108 2 201

T

TAOS COUNTY—

Time of holding district court 71 1 135

Petition to congress for authority to refund bonded indebted-
ness, J. M. No. 4 255

See also "Counties."

TAXES—

Appropriation for court house repair fund, levy for 108 11 212

Appropriation for current county expenses, levy for 108 9 211

Appropriation for printing books and schedules 108 8 207

Appropriation for public purposes, levy for 108 10 212

Assessments rolls, deficiency appropriation 108 8 211

Auditor, territorial to balance and close accounts 54 12 107

Bernalillo county, Sandoval county to receive 27 14 42

Board of education of city of Santa Fe to fix rate 97 2 173

Bounty on wild animals, special levy 80 1 148

Building and Savings and Loan Associations—

Levy since passage of Ch. 67, L. '01, declared abated..... 68 2 127

Manner of assessing 68 1 126

Commissioners of Torrance county to make special levy 70 9 134

Counties having outstanding indebtedness not released 20 1-3 30

County commissioners failing to make levy, penalty 20 4 31

County index fund, special levy 87 6 155

County tax rolls, traveling auditor to prepare 54 4 105

Coupons compromised received as 95 5 170

Deaf and dumb asylum, levy for appropriation 108 2 202

Delinquent, commissioners may compromise 54 12 107

Delinquent, Leonard Wood county to receive list of..... 69 10 130

Delinquent, to what funds to be credited 54 12 107

Eddy county hospital, levy for 108 3 203

Erection of armories 53 9 103

Exemption, property of corporations not conducted for finan-
cial gain 51 3 83

Gallup hospital, levy for 108 3 203

Grant county hospital, levy for 108 3 203

Institute for the blind, levy for 108 2 202

Interest on county refunding bonds, levy for 89 5 161

Ladies' hospital, Deming, levy for 108 3 203

Levy for commissioners to pay outstanding indebtedness 20 1-3 30

Louisiana Purchase Exposition, levy for 118 8 227

Miners' Hospital, levy for 108 2 201

Municipal corporations for water and light, may levy..... 34 1 55

New Mexico college of agriculture, levy for 108 2 200

New Mexico insane asylum, levy for 108 2 201

New Mexico military institute, levy for 108 2 200

New Mexico normal school, Las Vegas, levy for 108 2 200

New Mexico normal school, Silver City, levy for 108 2 200

New Mexico school of mines, levy for 108 2 200

Orphan children's home, levy for improvements 6 3 11

TAXES—Continued—

	Chap.	Sec.	Pag.
Orphans' school, levy	108	3	203
Quay county, levy to create sinking fund	8	7	18
Quay county, levy to pay interest coupons	8	7	18
Reform school, levy for	108	2	202
Refunding bonds, levy to create sinking fund	89	5	161
Relief society Las Vegas, levy for	108	3	203
Road fund, commissioners may levy to create	110	1	213
Road fund, manner of collection	110	2	216
Road fund, proceeds to be paid on warrant	110	3	216
Road fund, purpose for which created	110	2	216
Rolls, deficiency appropriation for printing of	108	8	211
Roosevelt county, levy to create sinking fund	7	7	14
Roosevelt county, levy to pay interest coupons	7	7	14
Sandoval county, levy to create sinking fund	27...	13	41
Sandoval county, levy to pay interest coupons	27	13	41
Sanitariums, exemption from taxation	17	1	27
Santa Fe railroad company, distribution of	18	2	29
Santa Fe railroad company, payment of	18	1	29
School directors may levy for school purposes	72	1	136
School purposes, special levy	74	1	140
Sisters' hospital, Albuquerque, levy for	108	3	203
Sisters of Loretto, Taos, levy for	108	3	203
Sisters of Mercy hospital, levy for	108	3	203
Special levy by sheep sanitary board	55	9	112
Special levy by sheep sanitary board	108	11	212
Special levy by sheep sanitary board, Sec. 168, C. L. '97, and Sec. 21, Ch. 33, L. '99, R	55	10	113
Special levy for jail purposes, when	66	1	124
St. Vincent's hospital, levy for	108	3	203
Territorial purposes, levy for	108	4	203
Treasurer to pay county from which territory is taken	20	2	31
University of New Mexico, levy for	108	2	200
Unpaid, Chaves and Guadalupe counties	7	10	15
Unpaid, Guadalupe and Union counties	8	10	20
Unpaid, Leonard Wood county to receive from counties of Guadalupe and Valencia	69	9	130
Water and right purposes in cities and towns	13	1	24

TEACHERS—**Public Schools—**

Appeal to board of health	92	1-2	165
Applicant found afflicted with tuberculosis, duty of exam- ining physician	92	1	165
Applicant afflicted with tuberculosis, duty of superinten- dent public instruction	92	1	165
Certificates, Sec. 2, Ch. 27, L. '01, A	119	10	231
Certificates to be revoked when	120	2	234
Failure to make report, penalty	119	14	231
Granting of third class certificates to	119	3	229
Vaccination, duties as to	103	29	190

TECOLOTE LAND GRANT—

See "Land Grants."

TERRITORIAL BOARD OF EQUALIZATION—

See "Board of Equalization, Territorial."

TERRITORIAL INSTITUTIONS—**Agricultural College—**

Appropriation, tax levy	108	2	200
-------------------------------	-----	---	-----

TERRITORIAL INSTITUTIONS—Continued—			Chap.	Sec.	Pag.
Cash appropriation	108	2	200		
Compensation of secretary and treasurer	108	2	202		
Inspection by house committee, J. R. No. 8				243	
Institutions inspection committee, appropriation, J.R.No.15 ..				247	
Sale of lands for benefit of	108	2	200		
Deaf and Dumb Asylum—					
Acceptance of land grant for	2	5	3		
Appropriation, tax levy	108	2	202		
Board of trustees	2	6-7	3		
Cash appropriation	108	2	202		
Compensation of secretary and treasurer	108	2	202		
Commissioners	2	12	6		
Creation and location	2	1	2		
Deficiency appropriation	108	8	210		
Erection of buildings	2	13	7		
Insane Asylum—					
Appropriation, tax levy	108	2	201		
Compensation of secretary and treasurer	108	2	202		
Geological survey funds transferred to, Ch. 69, '01, R	108	2	201		
Sale of lands for benefit of	108	2	201		
Institute for the blind—					
Acceptance of land grant for	2	5	3		
Appropriation, tax levy	108	2	202		
Board of trustees	2	6-7	3		
Cash appropriation	108	2	202		
Commissioners	2	12	6		
Compensation of secretary and treasurer	108	2	202		
Creation and location	2	3	2		
Donation of land	2	3	2		
Erection of buildings	2	13	7		
Purposes for which created	2	8	5		
Rules of admission	2	8	5		
Sale of lands for benefit of	108	2	202		
Solicitor general to examine title to land	2	3	2		
Military Institute—					
Appropriation, tax levy	108	2	200		
Cash appropriation	108	2	200		
Compensation of secretary and treasurer	108	2	202		
Sale of lands for benefit of	108	2	201		
Miners' Hospital—					
Acceptance of land grant for	2	5	3		
Appropriation, tax levy	108	2	201		
Board of trustees	2	6-7	3		
Cash appropriation	108	2	201		
Commissioners	2	12	0		
Compensation of secretary and treasurer	108	2	202		
Creation and location	2	4	3		
Donation of land	2	4	7		
Erection of buildings	2	13	7		
Purpose for which created	2	9	5		
Rules of admission	2	9	5		
Sale of lands for benefit of	108	2	201		
Solicitor general to examine title to land	2	4	3		
Normal School, Las Vegas—					
Appropriation, tax levy	108	2	200		
Compensation of secretary and treasurer	108	2	202		

TERRITORIAL INSTITUTIONS—Continued—

Chap. Sec. Pag.

Normal School, Silver City—

Appropriation, tax levy	108	2	200
Compensation secretary and treasurer	108	2	202

Orphan Children's Home—

Appropriation, tax levy	6	3	11
Board of regents	6	1	11
Buildings, use for school purposes	6	2	11
Location	6	1	1

Reform School—

Acceptance of land grant for	2	5	3
Appropriation, tax levy	108	2	202
Board of trustees	2	6-7	3
Board of trustees to prescribe rules	2	11	6
Cash appropriation	108	2	202
Commissioners	2	12	6
Compensation of secretary and treasurer	108	2	202
Creation and location	2	2	2
Donation of land	2	2	2
Duty of courts	2	10	5
Erection of buildings	2	13	7
Purpose for which created	2	10	5
Rules, superintendent to enforce	2	11	6
Sale of lands for benefit of	108	2	202
Solicitor general to examine title to land	2	2	2
Term of confinement	2	10	5
Whom to be confined therein	2	10	5

School of Mines—

Appropriation, tax levy	108	2	200
Compensation of secretary and treasurer	108	2	202

University of New Mexico—

Appropriation, tax levy	108	2	200
Cash appropriation	108	2	200
Compensation of secretary and treasurer	108	2	202

TEXT BOOKS—

Free to indigent pupils	39	2	60
History of New Mexico, adoption of	23	1-4	34

TIMBER—

Cutting of on school sections and public lands	81	1	149
------------------------------------------------------	----	---	-----

TORRANCE COUNTY—

Bond issue, court house, jail and current expenses	70	11	134
Bond issue to pay indebtedness due Valencia county	70	9	134
Boundaries	70	1	132
Commissioners to levy tax to pay interest and principal of bonds	70	9	134
County officers, election of	70	3	133
County of the fourth class	70	4	133
County seat, location	70	2	133
Creation, act to take effect when	70	12	134
District attorney	70	8	134
Indebtedness due counties, adjustment of	70	10	134
Judicial district	70	7	133
Legislative district, representation	70	6	133
Officers, salary of	70	4	133
Precincts and school districts	70	5	133
Returning board, appointment	70	3	133
Time of holding court	70	7	133

See also "Counties."

TOWNS—**Chap. Sec. Pag.****Incorporated—**

See "Corporations, Municipal."

Incorporation of—

Election of officers	111	1	217
Establishment of boundary lines	111	2	217
Governor to issue proclamation	111	1	217
Procedure	111	1	217
Indecent exposure of person in	117	1	224

TRANSLATING AND PRINTING—

Appropriation for	108	8	207
-------------------------	-----	---	-----

TREASURER—**City—**

Term of office, date of election	9	1-3	21
Term of office, Sec. 1, Ch. 9, L. '03, A	93	1	166

County and Ex-officio Collector—

Bernalillo, Valencia and McKinley counties, to collect taxes of Santa Fe Railroad Company	18	1	29
County refunding bonds, failure to collect tax for	89	8	162
County superintendents of schools, to notify of funds, Sec. 1548, C. L. '97, A	119	19	233
Fines collected, to be paid to when	119	17	232
Funds for county institutes, to set apart	120	1	234
Inspection of books by traveling auditor, to permit	54	3	105
Money to be paid treasurer of county from which territory is taken	20	2	31
Roosevelt county, to endorse bonds	7	6	13
Sandoval county, to endorse bonds	27	12	41
Surplus in general school fund, duty of	37	5	58
Surplus in general school fund, to notify directors	37	2	57
Taxes collected from Santa Fe railroad, to distribute....	18	2	29

Territorial—

Additional pay capitol employees, to pay warrant for, J. R. No. 17 .....	..	..	248
Appropriation for additional expenses	108	8	206
Armory building bonds, to sign	53	8	101
Commission to refund county indebtedness, member of ..	89	1	159
Corporation fees to be paid to	114	3	223
County refunding bonds in aid of railroad construction, to sign	89	3	160
Expenses of legislature, to pay, J. R. No. 3 .....	..	..	239
Expenses of legislature, to pay, No. J. R. No. 6 .....	..	..	241
Expenses of legislature, to pay, J. R. No. 9 .....	..	..	243
Expenses of legislature, to pay, J. R. No. 14 .....	..	..	247
Fees collected by district court clerk, to be turned over to	108	8	205
Funds for Louisiana Purchase Exposition to be turned over to	108	13	213
Indebtedness Luna county, to ascertain	79	1	147
Indebtedness Sandoval county, to ascertain and adjust ..	27	11	40
Insane asylum, to transfer funds to	108	2	201
Interest, to borrow funds for	108	1	199
Levy for county refunding bonds, to receive proceeds	89	5	161
Louisiana Purchase Exposition funds, may make loans	118	8	227
Louisiana Purchase Exposition, to pay amount appropriated	118	7	226
Mileage of board of education, to pay	120	3	235
Penitentiary account, to transfer funds to	19	1	29
Quay county, to ascertain indebtedness	8	5	17
Refunding bond coupons to be returned to	89	11	163
Refunding bonds, may sell	67	1	125

TREASURER—Continued—

	Chap.	Sec.	Pag.
Refunding of county railroad bonds, to send statement to county officers	89	4	160
Revenue for territorial purposes, duty in raising	88	6	157
Roosevelt county, to ascertain indebtedness of	7	5	13
Salary, appropriation for	108	8	205
Securities deposited by trust companies, to hold	52	6	88
Surplus, to transfer to following year	108	6	203
Tax levy, distribution of	108	4	203
Ten days' pay of officers of legislature to pay warrant, J. R. No. 16 .....	..	..	248
Territorial institutions, to credit funds to	78	5	145
Traveling auditor, to transfer documents to	54	9	106
United States land commission, salaries to pay	78	2	145

TRAVELING AUDITOR—

See "Auditor, Traveling."

TRESPASS—

Live stock upon fenced or cultivated field	73	1-5	136
--------------------------------------------------	----	-----	-----

TROUT—

Amount that may be caught in one day	48	10	78
Less than six inches in length, unlawful to take	48	5	76
Unlawful to catch when	48	4	76

TRUST COMPANIES—

Articles of agreement, contents	52	1	84
Articles of agreement to be filed with territorial secretary, auditor and probate clerk	52	2	85
Auditor to investigate	52	12	92
Board of directors, election and term of office	52	17	95
Board of directors to file oath with auditor	52	17	95
Board of directors, organization and powers	52	19	96
Bond, to give	52	6	88
Building and loan associations, may reincorporate, see also "Building and Loan Associations"	52	20-27	96
Capital stock, amount to be subscribed	52	9	90
Capital stock, amount to be subscribed	52	9	90
Capital stock, directors to file affidavit with secretary of territory	52	9	90
Capital stock, discount on shares of stock unlawful	52	8	90
Capital stock, reduction in, auditor to take charge	52	13	93
Capital stock, to advertise only actually paid in	52	9	90
Depository of territorial moneys, may be	52	16	95
Directors, term of office, Sec. 17, Ch. 52, L. '03, A	115	1	223
Dividends, when and how declared	52	7	90
Executor or administrator, may act as	52	5	87
Failure to report, penalty	52	11	92
Fees of auditor	52	13	93
General incorporation act applicable to	52	28	99
Guardian, may act as	52	5	87
Incorporation of	52	1	84
Limitation on indebtedness	52	8	90
Officers misappropriating funds, penalty	52	14	93
Officers refusing to be examined under oath, penalty	52	12	92
Purposes for which corporations may be created	52	3	85
Real estate, may purchase and lease when	52	20	96
Receiver, court may appoint when	52	15	93
Receiver, may act as when	52	5	87
Refusing examination, penalty	52	12	92
Reports, to be published	52	11	92

TRUST COMPANIES—Continued—

	Chap.	Sec.	Pag.
Reports to make to auditor	52	11	92
Reserve below amount allowed, auditor to take charge	52	10	91
Reserve fund to be kept on hand	52	10	91
Safety vaults, may control	52	4	86
Safety vaults, procedure when rent of box not paid	52	4	86
Securities deposited, auditor to supervise	52	6	88
Shareholders, liability of	52	15	93
Solicitor general may bring action against when	52	15	93
Special examiner, auditor may appoint	52	12	92
Stockholders entitled to one vote on each share	52	18	96
Traveling auditor, to report to	54	9	106
Trustee, may act as	52	5	87
When may act in fiduciary capacity without bond	52	6	88

TRUSTEES—

Trust companies may act as	52	5	87
----------------------------------	----	---	----

U**UNION COUNTY—**

Bond sale, Quay county to receive proceeds	8	7	18
District attorney, change of salary	12	1	24
Indebtedness due from Quay county	8	5	17
Officers to have jurisdiction until when	8	13	20
Unpaid taxes and licenses, list to be delivered to Quay county	8	10	20
See also "Counties."			

UNITED STATES LAND COMMISSION—

See "Land Commission, United States."

UNITED STATES MARSHAL—

Venires issued for United States jurors, to serve	112	3	219
---------------------------------------------------------	-----	---	-----

UNIVERSITY OF NEW MEXICO—

See "Territorial Institutions."

V**VACANCIES—**

Acequia officers, filling of	32	1	47
Board of exposition managers, governor to fill	118	2	226
Board of health, governor to fill	40	1	61
Board of horticultural commissioners	107	1-6	195
County school superintendents	100	3	178
District attorney, governor to fill	113	1	221
Leonard Wood county officials, filling of	69	5	129
Quay county officials, filling of	8	4	17
Roosevelt county officials, filling of	7	4	13

VACCINATION—

Adults, penalty for refusal	103	31	191
Board of health to make provisions for	103	21	188
Parents refusing to permit, penalty	103	29	190
School children by county health officers	103	30	191
School children, regulations	103	29	190
Vaccine matter, to be provided by whom	103	31	191

VALENCIA COUNTY—

Bond issue of Torrance county, to receive	70	9	134
Legislative representation	70	6	133
Leonard Wood county to issue bonds for benefit of	69	7	129
Unpaid taxes, to pay to Leonard Wood county	69	9	130
Unpaid taxes and licenses, list to be delivered to Leonard Wood county	69	10	130
Treasurer to collect taxes from Santa Fe railroad	18	1	29
See also "Counties."			

	Chap.	Sec.	Pag.
VENDERS—			
Drugs, to obtain license	40	8	63
VENIRES—			
Time and place of return in counties named	71	4	135
Time and place of return, to remain unchanged	71	5	135
VETO—			
Mayors of cities and towns	14	2	25
VILLAGES—			
Incorporated—			
See "Corporation, Municipal."			
Incorporation of—			
Establishment of boundary lines	111	2	217
Governor to issue proclamation	111	1	217
Procedure	111	1	217
Indecent exposure of person in, penalty	117	1	224

W

WARDEN, GAME AND FISH—			
See "Game and Fish Warden."			
WARRANTS—			
Infected baggage, may be issued to seize	103	15	184
Nuisances, to abate	103	9	182
Removal of infected persons, may be issued for	103	14	183
WATER—			
Municipal corporations may levy tax to construct works	13	1	24
Taxation for by municipal corporations	34	1	55
Unlawful to bathe in or befoul water used for domestic purposes	21	2	32
Unlawful to injure or obstruct any source of supply	21	1	21
WEATHER BUREAU—			
Appropriation for printing	108	8	207
WELLS, ARTESIAN—			
Penitentiary, appropriation for drilling	86	2	153
Penitentiary, superintendent to purchase materials to drill	86	1	153
WILD ANIMALS—			
See "Bounties."			
WOMAN'S BOARD OF TRADE AND LIBRARY ASSOCIATION—			
Land granted, description of	51	1	82
Land granted, purpose for which to be used	51	2	83
Property exempt from taxation	51	3	83
WRITS—			
Time and place of return of in counties named	71	4	135

ERRATA.

Chapter 29, sec. 1, line 3—For “chooses” read *choses*.

Chapter 48, sec. 14, line 4—For “act” read *fact*.

Index, page 263, fifth line from the bottom—For year
“1891” read *1899*.





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1905
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OF THE
TERRITORY OF NEW MEXICO.



THIRTY-SIXTH SESSION

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CONTENTS BY TITLE

Each chapter contains one act of the Thirty-sixth Legislative Assembly. The chapters are numbered in the order of approval by the governor.

Chapter.	Page.
1. An act providing funds and making appropriations for the payment of the district judge and the clerk of the district court of the sixth judicial district of the Territory of New Mexico. C. B. No. 3	1
2. An Act to amend an act entitled "An Act to create the County of Torrance and to provide for the government thereof." C. B. No. 30....	2
3. An Act to provide for the issuance of certificates of indebtedness for the payment of appropriations for the relief of flood sufferers, the building of dykes, and for other purposes. C. B. No. 40	5
4. An Act fixing the time for holding the terms of the district court in the fifth judicial district of the Territory of New Mexico. C. B. No. 35	11
5. An Act to establish an insurance department in the Territory of New Mexico and to regulate insurance companies doing business therein. H. B. No. 73.....	12
6. An Act empowering cities and towns to build street crossings and to assess the cost thereof against property owners. C. B. No. 19.....	23
7. An Act to provide for the construction of a system of public highways in the Territory of New Mexico and the use of convict labor therefor and for other purposes. C. S. for C. B. No. 38	26
8. An Act to provide funds for the purpose of defraying the expenses of boarding prisoners. H. B. No. 70	30
9. An Act to organize and equip a company of mounted police for the Territory of New Mexico. A. C. B. No. 26	31
10. An Act to abolish the County of Sandoval created by an act entitled "An Act to create the County of Sandoval, approved March 10, 1903," and creating a new county with different boundaries with the name of Sandoval. H. B. No. 89	34
11. An Act to amend Section 541, of the Compiled Laws of the Territory of New Mexico. A. C. B. No. 32	39
12. An Act providing for the payment and distribution of moneys and funds belonging to insolvent estates of deceased persons. C. B. No. 17	40
13. An Act to repeal a certain Act, entitled, "An Act to repeal an act of the twenty-eighth legislative assembly of the Territory of New Mexico, entitled 'An Act to define the offense of libel' and affix the punishment therefor, passed over veto January 30, 1899, approved February 8, 1893." C. B. No. 56	41
14. An Act entitled "An Act to amend section 2 of chapter 44 of the laws of the 33rd legislative assembly, approved March 15, 1899; the same being an act for the protection of stock raisers and to prevent the sale of dressed meats that have been stolen in the Territory of New Mexico." C. B. No. 27	41
15. An Act to amend an act entitled "An Act relating to corporations, domestic and foreign, prescribing fees to be paid for filing their articles, and for other purposes, approved March 19, 1903," and an act entitled "An Act requiring corporations to publish their articles of incorporation, approved March 21, 1901." C. B. No. 2	43
16. An Act fixing the time for holding the terms of the district court for the first judicial district of the Territory of New Mexico. C. B. No. 22...	44

Chapter.	Page.
17. An Act to regulate the use of artesian wells and to prevent the waste of subterranean flows of water, and for other purposes. C. B. No. 20...	45
18. An Act for the protection of property from the waters of the Rio Grande. A. C. B. No. 59	48
19. An Act entitled an act to provide means for constructing and maintaining dykes and such dams, embankments and ditches and other structures as may be necessary to protect lives and property against floods, and to authorize the levy of a tax therefor. C. B. for H. B. No. 4	53
20. An Act to amend chapter 69 of the Session Laws of the 35th legislative assembly of the Territory of New Mexico, being "An Act to create the County of Leonard Wood," and for other purposes. H. B. No. 16..	57
21. An Act in relation to the management of the community land grants in the County of Dona Ana. A. C. B. No. 31	58
22. An Act regulating the salaries of county commissioner. H. B. No. 128....	62
23. An Act to provide for the compensation of the enumerator of persons of school age in the several districts of the Territory of New Mexico. H. A. No. 23	62
24. An Act providing for the registration of trade-names, trade-marks and labels. H. B. No. 33	63
25. An Act fixing the time for holding the terms of the district court for the sixth judicial district. S. H. B. No. 45	65
26. An Act entitled "An Act to amend sub-section 134 of section 2685 of the Compiled Laws of 1897." C. B. No. 93	66
27. An Act to amend section 1 of chapter 95 of the Session Laws of 1901, amending section 8 of chapter 22 of the Session Laws of 1899, amending section 1757 of the Compiled Laws of 1897, in regard to exemptions from taxation. H. B. No. 43	66
28. An Act for the protection of mining property. A. C. B. No. 47	67
29. An Act defining the crime of arson and providing a penalty therefor, and for other purposes. C. S. for C. B. No. 55	68
30. An Act relating to the fees to be paid for recording brands; to fix the salary of the secretary of the cattle sanitary board, and for other purposes. C. B. No. 49	69
31. An Act to provide for the prevention and eradication of mange or scabies among horses, mules, asses and cattle. A. C. B. No. 29	70
32. An Act to prohibit the giving of and participating in cattle roping exhibitions. C. B. No. 23	73
33. An Act arranging and more specifically designating the districts of the territory for district attorney purposes, and for other purposes. C. S. for A. C. B. No. 48	74
34. An Act providing for assistant district attorneys. A. C. B. No. 96	76
35. An Act to amend An Act for the protection of property from the waters of the Rio Grande. A. C. B. No. 59. Approved Feb. 22, 1905. H. B. No. 168	77
36. An Act to amend Chapter 29 of the Session Laws of 1901, of New Mexico, Approved March 16, 1901. H. B. No. 144	77
37. An Act for the protection of persons hiring labor in advance. H. B. No. 111	79
38. An Act to prevent the sale of animals on shares, without the consent of the owner, and for other purposes. H. B. No. 107	79
39. An Act to amend An Act of the 36th Legislative Assembly of the Territory of New Mexico, entitled "An Act to establish an insurance department in the Territory of New Mexico and to regulate insurance companies doing business therein," being House Bill No. 73. Approved Feb. 9, 1905. H. B. No. 150	80
40. An Act relating to registration boards. H. B. No. 22	81
41. An Act to amend Section 1, of Chapter 16, of the Session Laws of 1897. H. B. No. 104	82
42. An Act relating to the sheep sanitary board. H. B. No. 110.....	83

Chapter.	Page.
43. An Act entitled An Act relating to foul brood and other contagious diseases among bees. H. B. No. 158	84
44. An Act to amended An Act entitled "An Act to provide means for constructing and maintaining dykes and such dams, embankments and ditches and other structures as may be necessary to protect lives and property against floods and to authorize the levy of a tax therefor." Approved Feb. 22, 1905. H. B. No. 161	86
45. An Act to amend Sections 5 and 6, of Chapter LX, of the Session Laws of 1893 relating to the practice of dentistry within the Territory of New Mexico. H. B. No. 155	87
46. An Act providing for the management, control and government of the land grant known as the Grant of Cebilleta de la Joya in the County of Socorro. H. B. No. 145	88
47. An Act entitled An Act in relation to incorporated towns and villages. A. C. B. No. 97	95
48. An Act providing for a compulsory flag law for the Territory of New Mexico. C. B. No. 79	96
49. An Act amending Section 182, of the Compiled Laws of New Mexico of 1897. C. B. No. 91	97
50. An Act to amend Section 19, of Chapter 81, of the Session Laws of 1901, in regard to the appraisement of estates. C. S. for H. B. No. 46	98
51. An Act for the better protection of game animals, birds and fish, within the Territory of New Mexico. C. S., for C. B. No. 51	99
52. An Act to amend Sections 2 and 3, of an act entitled "An Act in relation to crime and punishment, approved April 2, 1884." H. B. No. 105..	103
53. An Act entitled An Act to permit county commissioners to make levy for the support of the board of horticultural commissioners. H.B.No.55..	105
54. An Act authorizing county commissioners to levy a tax for court house and jail building purposes. A. H. B. No. 39	105
55. An Act entitled an act to amend An Act relating to lawful fences. H. B. No. 56	106
56. An Act to authorize county commissioners to levy a deficiency tax to pay for the construction of public bridges. H. B. No. 117	108
57. An Act entitled An Act to aid in establishing a permanent water reservoir for irrigating purposes at or near the Elephant Butte, New Mexico, and for the improvement of the Rio Grande in New Mexico and the increasing of the surface flow of water in the bed of said river. S. for H. B. No. 116	109
58. An Act to amend An Act of the 36th legislative assembly, entitled "An Act to amend Chapter 69, of the Session Laws of the 35th legislative assembly of the Territory of New Mexico." H. B. No. 169.....	112
59. An Act providing for uniformity in filing official bonds. C. B. No. 105..	113
60. An Act to regulate the classification of counties, and fixing the salaries of certain county officials thereof. A. B. to A. C. B. No. 99	113
61. An Act to provide for the collection of poll tax in the Territory of New Mexico. H. B. No. 92	116
62. An Act to prevent the defrauding of livery stable keepers and providing penalty therefor. H. S. for H. B. No. 18	117
63. An Act with reference to taxation by municipal corporations. H.B.No.126..	118
64. An Act for the enforcement of delinquent taxes on property in the hands of a receiver. H. B. No. 123	119
65. An Act regarding marriages, providing for uniform system of records thereof, and for other purposes. H. B. No. 129	120
66. An Act creating the office of oil inspector and providing for the inspection of coal oil, gasoline and naphtha, in the Territory of New Mexico. H.B.No.74	124
67. An Act relating to municipal corporations. C. B. No. 128	127

Chapter.	Page.
68. An Act entitled "An Act to license osteopathic physicians and surgeons to practice in the Territory of New Mexico, to establish a board of osteopathy, to regulate the practice of osteopathy and to punish all persons violating the provisions of this act." A. C. B. No. 82	127
69. An Act to amend Section 2608, of the Compiled Laws of the Territory of New Mexico of 1897. A. C. B. No. 15	130
70. An Act to amend An Act entitled "An Act to establish an insurance department in the Territory of New Mexico and to regulate insurance companies doing business therein." C. B. No. 123	131
71. An Act relating to the annual settlement of the territorial treasurer. C. B. No. 100	132
72. An Act entitled An Act to aid territorial institutions to erect buildings and other permanent improvements. C. B. No. 78	132
73. An Act to authorize the territorial board of education to issue certificates to normal institute conductors, to harmonize the school law and for other purposes. A. C. S. for H. B. No. 41	133
74. An Act to validate and legalize indebtedness heretofore incurred by boards of education and boards of school directors in excess of the current income of such boards, and to authorize the issue of bonds to pay such indebtedness. C. B. No. 118	135
75. An Act to issue bonds for the Territory of New Mexico for the erection of additional buildings and increasing the capacity of the territorial insane asylum. C. B. No. 121	136
76. An Act to amend Section two (2), of Chapter LXIII, of the Session Laws of 1899, entitled "An Act to amend Sections twenty-nine, thirty-seven and twenty-nine thirty-eight of the Compiled Laws of 1897." C.B.No.83	139
77. An Act relative to bounties on wild animals. A. C. B. No. 68.....	140
78. An Act amending Chapter 52, of the acts of the Thirty-fifth Legislative Assembly of the Territory of New Mexico, entitled An Act relating to trust companies, approved March 12, 1903. C. B. No. 113.....	141
79. An Act to regulate the formation and government of corporations for mining, manufacturing, industrial and other pursuits. A. C. B. No. 58..	142
80. An Act amending Section 3718, of the Compiled Laws of New Mexico of 1897. H. B. No. 165	193
81. An Act entitled An Act to amend Section 1541, of Chapter 1, of the Compiled Laws of 1897, relating to school house bond levies. H. B. No. 12 ..	193
82. An Act to amend Section 1746, of the Compiled Laws of 1897, of this territory, and to provide a manner of making claims for exemptions in justice's courts. C. B. No. 63	194
83. An Act with reference to the doing of assessment work upon mining claims. C. B. No. 65	196
84. An Act to compel certain prisoners to do public work in incorporated cities and towns. C. B. No. 87	197
85. An Act to amend Section 2, of Chapter 57, of the acts of the Thirty-Fifth Legislative Assembly of the Territory of New Mexico. C. B. No. 88 ..	198
86. An Act to prohibit the riding of bicycles upon sidewalks of unincorporated towns. C. B. No. 104	198
87. An Act to authorize the issuance of bonds by the County of Luna, for the purpose of paying off and discharging its proportion of the debts of the original Counties of Dona Ana and Grant as adjusted. C.B.No.131 ..	199
88. An Act to amend an act entitled "An Act to provide, for the issuance of certificates of indebtedness for the payment of appropriations for the relief of flood sufferers, the building of dykes and for other purposes. C. B. No. 40, approved February 1, 1905." C. B. No. 139.....	203
89. An Act fixing the times for holding the terms of the district court in certain counties. A. C. S. for C. B. No. 60	204

Chapter.	Page.
90. An Act to define the preference rights of ex-United States soldiers, their widows, or heirs, with reference to leasing sections 16 and 35, lands of the Territory of New Mexico. C. B. No. 94	205
91. An Act to prevent injury to ditches, pipe lines, reservoirs and the taking of and befouling of water therefrom. C. B. No. 95	207
92. An Act to amend an act entitled "An Act to authorize the formation of companies for the purpose of constructing irrigating and other canals and the colonization and improvement of lands." C. B. No. 107....	208
93. An Act to amend section 2582, of the Compiled Laws of 1897, the same in regard to solicitor general and district attorneys. C. B. No. 117..	209
94. An Act providing for the arrest of persons who may violate the provisions of Sections 1133 and 1134, of the Compiled Laws of 1897. C. B. No. 134	210
95. An Act to prevent and punish the running and the use upon horses, cattle, mules and asses, of any brand that is not recorded in the territorial brand book, in the office of the cattle sanitary board. H. S. for C. B. No. 28	211
96. An Act to regulate the practice of optometry and for the appointment of the board of examiners in the matter of said regulation. H. B. No. 71	212
97. An Act providing for the appropriation and valuation of lands and other property taken for telegraph, telephone, public road, railroad and other public uses and purposes. H. B. No. 113	217
98. An Act to amend chapter 73 of the Session Laws of 1903 relating to damages committed by animals. H. B. No. 146	225
99. An Act authorizing the consolidation of benevolent, charitable and scientific associations. H. B. No. 120	225
100. An Act providing for the repeal of an act with reference to assessments, and other purposes. A. C. B. No. 80	226
101. An Act to promote the efficiency of the national guard of the Territory of New Mexico, and for other purposes. A. C. B. No. 57	227
102. An Act creating the office of territorial irrigation engineer, to promote irrigation development and conserve the waters of New Mexico for the irrigation of lands, and for other purposes. A. C. B. No. 98	270
103. An Act authorizing boards of county commissioners to procure certified copies of township plats of their respective counties for use of county assessors, and for other purposes. A. H. B. No. 94	283
104. An Act to be entitled an act to regulate for the appropriation of waters for mining, milling, agricultural, and other purposes. A. H. B. No. 21..	284
105. An Act for the relief of the County of Quay. H. B. No. 162	286
106. An Act to provide for the furnishing of proper bonds by territorial and county officials. A. H. B. No. 19	287
107. An Act to protect the inhabitants of this territory from frauds perpetrated by itinerant vendors. A. H. B. No. 149	288
108. An Act to amend section 6 of chapter 6 of the Session Laws of New Mexico of 1901. H. B. No. 154	290
109. An Act entitled an act to amend section 1 of chapter 72 of the Session Laws of 1903. H. B. No. 63	290
110. An Act entitled an act to amend section 1870 of chapter 1 of the Compiled Laws of the Territory of New Mexico, relating to the bureau of immigration. A. H. B. No. 130	291
111. An Act to provide for the leasing, sale, management and control of all lands now owned or hereafter acquired by the Territory of New Mexico, to create a territorial public land office, and a commissioner thereof, and to prescribe the duties of such officer; to provide for the care, custody, disposition and investment of moneys derived from the leasing and sale of all territorial lands, and for other purposes. A. C. B. No. 109.	292
112. An Act providing funds and making appropriations for the Fifty-seventh and Fifty-eighth fiscal years and for other purposes. A. C. B. No. 120..	309
113. An Act to repeal Chapter 15, of the acts of the Thirty-fourth Legislative Assembly. C. B. No. 153	322

Chapter.	Page.
114. An Act relating to supreme court practice and amending the statutes relating thereto, and for other purposes. A. H. B. No. 75.....	323
115. An Act to amend Section 4124, of the Compiled Laws of the Territory of New Mexico of 1897, and for other purposes. A. C. S. for C.B.No.24	327
116. An Act to define the qualifications and regulate the drawing of jurors. A. C. B. No. 111	329
117. An Act relating to salaries and fees of probate clerks and ex-officio recorders and county superintendents of schools. C. B. No. 133.....	338
118. An Act changing the name of the office of solicitor general to that of attorney general, and for other purposes. A. C. B. No. 127	339
119. An Act relating to the changing of county seats. C. B. No. 85	340
120. An Act entitled An Act with reference to qualifications of deputy sheriffs. C. B. No. 154	341
121. An Act relating to the publication of process and the service of process by publication. C. B. No. 141	341
122. An Act amending An Act entitled An Act creating the office of oil inspector and providing for the inspection of coal oil, gasoline and naphtha in the Territory of New Mexico. C. B. No. 147	342
123. An Act designating the method of payment of certain appropriations with reference to the County of Taos. C. B. No. 150	343
124. An Act relating to public highways. C. B. No. 116	343
125. An Act amending Chapter 50, of the Session Laws of 1899, entitled An Act relating to sales of coal oil and its products. C. B. No. 152.....	354
126. An Act fixing the time for holding the terms of the district court for the fourth judicial district of the Territory of New Mexico. C.B.No.143..	355
127. An Act to amend the election laws of the Territory of New Mexico and for other purposes. C. B. No. 151	356
128. An Act to prevent and punish fraud in sales of manufactured goods, jewelry, wares and merchandise by "Itinerant Vendors," and to regulate such sales. A. C. B. No. 77	358
129. An Act to prescribe the manner of describing money in indictments. A. C. B. No. 36	364
130. An Act repealing certain provisions of Council Bill No. 60, approved March 6, 1901. H. B. No. 201	365
131. An Act to amend section 6 of chapter 81 of the acts of the 34th legislative assembly, entitled, "An Act to provide a method of procedure in the administration of estates of deceased persons, to define the duties of administrators and executors, and providing a method of appeal from probate courts to district courts, and for other purposes." Approved March 21, 1901. C. B. No. 106	365
132. An Act fixing the times of holding district courts in Bernalillo and other counties. C. B. No. 144	367
133. An Act to amend section 3299 of the Compiled Laws of New Mexico of 1897, relative to garnishments. A. C. B. No. 103	367
134. An Act in reference to property sold for taxes. C. B. No. 145.....	368

JOINT RESOLUTIONS.

Number	Page.
1. Appropriation for the payment of employes and contingent expense of the legislature. C. J. R. No. 1	370
2. Furnishing members of the legislature with copies of the Compiled Laws of 1897, in Spanish and English. C. J. R. No. 2	370
3. To supply members of council and house of representatives with Laws of 1899 and 1901 and 1903. C. J. R. No. 3	371

Number	Page.
4. Providing for payment of reward for the arrest and conviction of assassins of Col. J. Francisco Chaves. C. J. R. No. 4	371
5. To secure publicity through the public press of the proceedings of the 36th legislative assembly. H. J. R. No. 2	372
6. Thanking the senate of the state of Colorado for passage of resolutions favoring separate statehood for New Mexico and Arizona. C.J.R.No.6	372
7. Authorizing joint committees to inspect and report upon affairs of territorial offices and territorial institutions. C.S. to A.H.S. for H.J.R.No.4..	373
8. Protesting to U. S. senate and H. of R. of U. S. against establishment of leper colony in New Mexico. C. J. R. No. 7	374
9. Providing for the distribution of the statutes of New Mexico to public officials and others. C. J. R. No. 5	374
10. Authorizing the printing of bills and other documents. C. J. R. No. 8.....	375
11. Making an appropriation for pay of officers and clerks for ten days after adjournment of legislature. C. J. R. No. 9	375
12. Providing for additional pay for the regular capitol employes. H.J.R.No.6..	376
13. Providing for the purchase of a bust of Hon. J. Francisco Chaves, and an appropriation therefor. C. J. R. No. 10	377
14. Commending the action of President Roosevelt and his cabinet officers for their good work in regulating the trusts. A. H. J. R. No. 4.....	377

JOINT MEMORIALS.

Number	Page.
1. Protesting to the senate of the U. S. against the passage of statehood bill with clause providing for the admission of New Mexico and Arizona as one state. C. J. M. No. 1	379
2. Protesting to the president of the United States against the creation of the Rio de Jemez forest reserve. C. J. M. No. 2	381
3. Protesting against the passage, in its present form, by the senate of the United States, of H. R. No. 17939, relating to the construction of a dam and reservoir on the Rio Grande in New Mexico, and for other purposes. C. J. M. No. 3	382
4. Petitioning the legislative assembly of the State of Illinois to urge representatives in congress from Illinois to vote for senate amendments admitting New Mexico as a single state. C. J. M. No. 4	383
5. Protesting to the commissioner of the general land office against the withdrawal of lands from public entry in San Juan county. H.J.M.No.5..	384
6. To the Congress of the United States, requesting the passage of H. B. No. 7269, relative to the Pajarito CliffDwellers' National Park. H.J.M.No.22	387
7. Petitioning the Senate and H. R. of the U. S. to pass legislation regulating interstate commerce in the matter of adulterated foods, etc. A. C. J. M. No. 5	388
8. Petitioning for establishment of land office district with headquarters at Santa Rosa, N. M. H. J. M. No. 3	388
9. To the secretary of the interior, office of Indians affairs, asking that the Navajo Indians having reservations and residing within the Territory of New Mexico, be required to stay within the limits of their reservations and cease violating game laws of the territory. A.C.J.M.No.6..	389
10. To the Senate and House of Representatives of the United States. Petitioning for establishment of seventh judicial district with headquarters at City of Socorro. N. M. C. J. M. No. 8	390
11. Petitioning the Honorable, the secretary of agriculture, to grant permission to the Territory of New Mexico, to construct and maintain that portion of the Camino Real known as "The Scenic Road" upon and across the Pecos Forest Reserve. C. J. M. No. 9	391

LAWS OF NEW MEXICO.

Thirty-Sixth Legislative Assembly, 1905

CHAPTER I.

AN ACT PROVIDING FUNDS AND MAKING APPROPRIATIONS FOR THE PAYMENT OF THE DISTRICT JUDGE AND THE CLERK OF THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE TERRITORY OF NEW MEXICO. *C. B. No. 3; Approved February 2, 1905.*

CONTENTS.

- Sec. 1. Appropriation for salary and expenses of the judge of the sixth judicial district.
- Sec. 2. Appropriation for salary of clerk of district court of the sixth judicial district.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That there be and here is appropriated out of any moneys in the territorial treasury, not set apart for the payment of interest on the public debt, the sum of two thousand one hundred and twenty-five (\$2,125.00) dollars for the salary and expenses of the judge of the sixth judicial district of the Territory of New Mexico from the first day of July, A. D. 1904, to the first day of December, A. D. 1905, to be paid as follows: The accrued salary from July first, 1904, to December first, 1904, to be paid immediately upon the passage and approval of this act, and the auditor of the territory is hereby authorized and directed to draw his warrant on the treasurer of the territory in favor of the judge of the said sixth judicial district for the amount so accrued; the remainder to be paid as is now provided by law for the payment of the salaries of the judges of the other judicial districts of New Mexico.

Sec. 2. That there be and hereby is appropriated out of any moneys in the territorial treasury, not set apart for the payment of interest on the public debt, the sum of four thousand five hun-

dred and thirty-four (\$4,534.00) dollars for the salary of the clerk of the district court of the sixth judicial district of the territory of New Mexico from July first, A. D., 1904, to the first day of December, A. D., 1905; the same to be paid as follows: The accrued salary from July first, 1904, to January first, 1905, to be paid immediately upon the passage and approval of this act, and the auditor of the territory is hereby authorized and directed to draw his warrant on the treasurer of the territory in favor of the clerk of the said sixth judicial district for the amount so accrued; the remainder to be paid as is now provided by law for the payment of the salaries of the clerks of the district courts of the other judicial districts of New Mexico.

Sec. 3. This act shall take effect and be in force from and after its passage.

CHAPTER 2.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CREATE THE COUNTY OF TORRANCE AND TO PROVIDE FOR THE GOVERNMENT THEREOF," APPROVED MARCH 16, 1903. C. B. No. 30; Approved February 2, 1905.

CONTENTS.

- Sec. 1. Chapter 70, Laws of 1903, creating County of Torrance amended.
- Sec. 2. Section 1, Chapter 70, Laws of 1903, fixing boundaries of Torrance county, amended. New boundaries.
- Sec. 3. Section 2, Chapter 70, Laws of 1903, fixing county seat at Progresso, amended. Estancia made county seat. Proviso.
- Sec. 4. Section 7, Chapter 70, Laws of 1903, attaching Torrance county to second judicial district, re-enacted. Transfer of causes from Valencia county to Torrance county.
- Sec. 5. Section 9, Chapter 70, Laws of 1903, providing bond issue to pay indebtedness due County of Valencia, amended. New Bonds. Form. Maturity. Rate of interest. Sinking fund.
- Sec. 6. Act not to affect any section of Chapter 70, Laws of 1903, unless expressly referred to.
- Sec. 7. Transfer from Valencia county to Torrance county of records relating to Torrance county.
- Sec. 8. Treasurer of Valencia county to turn over moneys belonging to Torrance county. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the act of the Legislative Assembly entitled "An Act to create the County of Torrance and to provide for

the government thereof," approved March 16th, 1903, being Chapter 70 of the Acts of 1903 be, and the same is hereby, amended as follows:

Sec. 2. That Section 1 of said Act is hereby amended to read: "That a county which shall be known as Torrance county is hereby created out of that portion of the Territory of New Mexico included within the following boundaries, as indicated by the United States surveys, to-wit:

"Commencing at the standard corner to sections No. 33 and No. 34, township one north, range five east of the New Mexico principal base line, and running thence north through the center of townships one, two and three north to the line between townships three and four north; thence west on the said township line to the southwest corner of township four north, range five east; thence north on the range line between ranges four and five east, to the southwest corner of township eight north, range five east; thence east on the township line between townships seven and eight north, to the southeast corner of township eight north, range seven east; thence north on the range line between ranges seven and eight east, to the northwest corner of township eight north, range eight east, on the second standard parallel north; thence west on the second standard parallel north to the southwest corner of township nine north, range seven east; thence north on the range line between ranges six and seven east to the northwest corner of township nine north, range seven east; thence east on the township line between townships nine and ten north, to the northeast corner of township nine north, range fifteen east; thence south on the range line between ranges fifteen and sixteen east, to the New Mexico principal base line; and thence west on said New Mexico principal base line, to the place of beginning."

Sec. 3. That Section 2 of said Act is amended to read: "The county seat of the said County of Torrance shall be, and the same is hereby located at the town of Estancia, in said county," upon the condition that the necessary land and site for a court house and jail at said town of Estancia shall be donated to said county by the owner or owners of the town site at said town.

Sec. 4. And, whereas, the said County of Torrance has been included in the sixth judicial district of the Territory of New Mexico, to the great inconvenience of the people of said county, therefore, be it further enacted that Section 7 of the said Act be re-enacted in the same words as are used in the original act, that is to say: "The said County of Torrance is hereby attached to the second judicial district for judicial purposes, and

the district court for the trial of causes arising under the laws of the territory shall be held therein by the judge of said court at such times as may be provided by law," and all indictments and civil causes now pending in the County of Valencia, originating within the County of Torrance as bounded and defined in this Act, shall be tried in said County of Torrance, and the clerk of the district court of the said second judicial district shall transfer said causes on the docket from said County of Valencia to said County of Torrance, and the said causes shall be tried, and the venue of said court shall be held to have attached, as if the said County of Torrance had been created and in existence when said indictments were found and said civil suits brought.

Sec. 5. That Section 9 of said Act shall be and the same is hereby amended to read: "That the said County of Torrance shall assume and pay to the County of Valencia, from which the said County of Torrance has been partly segregated and organized, the sum of twenty-five thousand dollars on account of the outstanding legal and valid indebtedness of the said County of Valencia, and for this purpose the said County of Torrance shall issue bonds, in the said sum of twenty-five thousand dollars, payable thirty years after date and bearing date the first day of January, A. D., 1905, and shall bear interest at the rate of not to exceed five per cent. per annum, payable semi-annually. Said bonds to be in the usual form, and in the sum of one hundred dollars or any multiple thereof, and the county commissioners of the said County of Torrance are required annually, when other taxes are levied and collected, to levy and cause to be collected upon all taxable property of said county, a sum sufficient to pay said interest. And said county commissioners are hereby required and it shall be their duty, from and after ten years from the date of said bonds, to levy and collect a sufficient tax to create a sinking fund to pay off, take up, and discharge, said bonds at maturity. Said tax shall be levied and collected each year thereafter, beginning with the year A. D., 1915.

Said bonds when issued, as aforesaid, shall be delivered to the said County of Valencia, to be held by said county, or to be used by said county, in the payment and redemption of the outstanding bonded indebtedness of said county.

Sec. 6. That this act shall not be so construed as to affect any section of the original act not herein expressly referred to, and all the officers of said County of Torrance chosen at the last general election, shall hold their offices as if this act had not been passed.

Sec. 7. The board of county commissioners of the County of Torrance are hereby authorized and empowered to cause to be copied all deeds, conveyances and records on file in the old County of Valencia, and have the same re-recorded in Torrance county, relating to any lands, real estate or tenements in said County of Torrance, and said board is hereby authorized and empowered to employ such agents as they may see fit, and when said records have been recorded in said County of Torrance they shall convey the same notice, as would have been conveyed had said county always existed, and said record had been therein recorded in the first place.

Sec. 8. That within thirty days after the passage and approval of this act, or as soon thereafter as can conveniently be done, the treasurer and collector of Valencia county, shall turn over and pay, taking his receipt therefor, to the treasurer and collector of the said County of Torrance, any and all school moneys, apportioned, in his possession on the first day of January, A. D., 1905, and properly belonging to said County of Torrance: *Provided, However,* That, before such delivery is made, the said treasurer and collector of Valencia county must be furnished with a certificate from the superintendent of public instruction of the territory, showing that the said treasurer of Torrance county has been duly qualified as ex-officio treasurer of the school funds of his county.

Sec. 9. That all acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and effect from and after the date of its passage.

CHAPTER 3.

AN ACT TO PROVIDE FOR THE ISSUANCE OF CERTIFICATES OF INDEBTEDNESS FOR THE PAYMENT OF APPROPRIATIONS FOR THE RELIEF OF FLOOD SUFFERERS, THE BUILDING OF DYKES, AND FOR OTHER PURPOSES. C. B. No. 40; *Approved February 4, 1905.*

CONTENTS.

- Sec. 1. Certificates of indebtedness to be issued. Form. Maturity. Rate of Interest. Signatures of territorial auditor and treasurer.
- Sec. 2. Levy for payment of interest and principal.
- Sec. 3. Manner of redemption of certificates. Order of redemption to be determined by lot.
- Sec. 4. Certificates of indebtedness and coupons to be numbered. Proviso.

- Sec. 5. Appropriation out of "Flood Sufferers' Relief Fund." Counties benefited. County commissioners to receive sums appropriated as trustees.
- Sec. 6. County commissioners to pro rate proceeds among sufferers. Commissioners to ascertain names of persons suffering total loss. Persons able to provide necessities not entitled to benefits. Proviso.
- Sec. 7. Moneys received to be deposited with county treasurer. Warrants. Vouchers.
- Sec. 8. Necessary expenses. Proviso.
- Sec. 9. Appropriation for construction of dyke at Albuquerque. Mayor and city council to supervise. Report to governor.
- Sec. 10. Appropriation for construction of dyke at City of Socorro. Mayor and city council to supervise. Report to governor.
- Sec. 11. Appropriation for construction of dyke at San Marcial. Commission appointed by governor to supervise. Duties of commission.
- Sec. 12. Appropriation for construction of dyke at Hillsboro. Commission appointed by governor to supervise. Duties of commission.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That to provide for the payment of the appropriations hereinafter specified there shall be an issue of certificates of indebtedness of the Territory of New Mexico, the form for which certificates shall be prescribed by the solicitor general of the territory; such certificates shall be dated March 1, 1905, they shall be payable five years from their date with the right of the territory to pay them at any time after the expiration of one year from their date; they shall be issued in sums of one hundred dollars or multiples thereof. They shall bear interest at the rate of six per cent. per annum, payable semi-annually on the first days of March and September; principal and interest payable at the office of the territorial treasurer. The certificates shall be signed by the auditor of public accounts and by the territorial treasurer and the coupons attached thereto for the semi-annual interest shall have the engraved or lithographed fac-simile signature of the treasurer thereon.

The certificates herein authorized shall be sold by the territorial treasurer at not less than par and the proceeds placed by the said territorial treasurer in the territorial treasury to the credit of a special fund to be known as the "Flood Sufferers' Relief Fund."

Sec. 2. To provide for the payment of the interest and principal of the certificates authorized by Section 1 of this Act, it shall be the duty of the auditor to levy annually, beginning with the year 1905, a tax on all taxable property in the territory sufficient to pay into the territorial treasury a sum sufficient to pay the interest and twenty per cent. of the principal of said certificates for each and every year for the term of five years, and the auditor shall certify to the respective boards of

county commissioners annually for five years, the amount of the tax so levied by him to provide for the interest and principal as above set forth, and annually at the time of making the general levy for assessments of taxes for territorial and county purposes, there shall be levied by the boards of county commissioners of each county, a levy to equal the amount so certified to them by the auditor.

Sec. 3. After the expiration of one (1) year and at the expirations of each succeeding year for the term of five years, from the first day of March, 1905, it shall be the duty of the territorial treasurer, to publish a notice once a week, for four consecutive weeks, in some daily paper published in the territory, giving notice that twenty per cent. of the amount of certificates authorized by this act and the interest thereon will be paid on the presentation and surrender of such certificates at his office, and that interest will cease upon such certificates thirty (30) days from the date of the first publication of such notice. The certificates so to be redeemed, shall be determined by lot and the notice so required to be published by the treasurer shall describe such certificates by giving the amount, day of issuance, series if they bear one, number thereof, and at the expiration of said thirty (30) days from the day of such publication, of the said notice, above required, interest shall cease on all certificates named in such notice.

Sec. 4. The certificates of indebtedness provided for in this act shall be numbered consecutively, beginning with number one, for each denomination or series for which they may be issued, and the coupons attached thereto shall bear the same number as the certificates to which they are attached: *Provided*, That in no event shall the certificates herein authorized to be issued and sold, exceed in the aggregate the sum of fifty thousand (\$50,000) dollars.

Sec. 5. That there is hereby appropriated the following sums of money payable to the order of the person or persons hereinafter specified, which sums of money shall be paid by the territorial treasurer out of the said "Flood Sufferers' Relief Fund," and the territorial auditor is hereby directed to draw his warrant or warrants for said sums of money upon the territorial treasurer in conformity herewith, for the relief of the flood sufferers of the:

County of Grant	\$3,000.00
County of Dona Ana	4,000.00
County of Sierra	1,000.00
County of Socorro	4,000.00
County of Valencia	4,000.00
County of Bernalillo	4,000.00

County of San Miguel	\$4,000.00
County of Mora	3,000.00
County of Colfax	2,000.00
County of Taos	3,000.00
County of Rio Arriba	3,000.00
County of Leonard Wood	1,000.00
County of Sandoval	2,000.00

The above sum shall be payable to the order of the chairman of the board of county commissioners of the respective counties above mentioned and the said county commissioners of the respective counties above mentioned shall receive said sums of money in trust from the territory for the purposes of carrying out the intent of this act.

Sec. 6. It is hereby made the duty of the said boards of county commissioners to pro rate as equitably as possible the proceeds of said moneys received and caused to be paid such sums so pro rated to the person or persons who have suffered during the year 1904, and who suffered a total loss of their crops during said year. It is hereby furthermore made the duty of such county commissioners to cause an investigation to be made in each precinct of their respective counties and ascertain the names of all such persons who suffered a total loss of all their crops during said year or a total loss of his or their homes during such year and cause a list of all such persons to be made out and entered upon the journal of the proceedings of said county commissioners and after such investigation and report has been made, said county commissioners shall then pro rate the proceeds of such moneys so received and cause the same to be paid to such persons so mentioned in said report as in their judgment are worthy and in need of assistance: *Provided*, That no person or persons who shall have suffered losses under the provisions of this act who are not in needy circumstances and in the judgment of said board of county commissioners are financially able to obtain the necessaries of life for the purpose of seeding and cultivating his or their land for the year of 1905, shall not be entitled to receive any benefits hereunder, it being the true intent of this act to supply the wants of those persons who have suffered from the floods of 1904, to such extent as to disable them from obtaining the necessary seed and who are unable to provide for the necessaries of life incident to the cultivation of his or their lands for the year 1905.

Sec. 7. The moneys so received shall be deposited by said chairman of the respective boards of county commissioners

with the treasurer of the respective counties, which shall be placed by said treasurer to the credit of a special fund to be known as the "Flood Sufferers' Relief Fund," and all moneys disbursed hereunder shall be paid out by warrant issued by such chairman of the respective boards of county commissioners drawn upon the county treasurer, and a receipted voucher shall be taken in each instance from each and every person receiving benefits hereunder, which voucher after being duly receipted shall be forwarded together with the report of all disbursements made hereunder by each board of county commissioners to the governor of the territory. Such vouchers shall designate the place of residence and precinct wherein the beneficiary resides.

Sec. 8. All necessary expense actually incurred incident to the investigation, disbursement and printing of vouchers, etc., under the provisions of this act, shall be paid out of the current expense fund of such counties: *Provided*, That such expense shall in no county exceed in the aggregate the sum of two hundred and fifty (\$250.00) dollars.

Sec. 9. For the purpose of constructing a dyke for the protection of the City of Albuquerque from floods, there is hereby appropriated the sum of four thousand (\$4,000.00) dollars, which sum shall be payable to the order of the mayor of the city of Albuquerque. The construction and location of such dyke shall be made under the direction and control of the mayor and city council of the City of Albuquerque, and shall be constructed in a substantial manner under the direction of a competent civil engineer, who shall be designated by said mayor and the city council of said city. An itemized report shall be made upon completion of such dyke by the said mayor and city council to the governor of the territory, showing all disbursements and construction work made pursuant to this act.

Sec. 10. There is hereby appropriated the sum of three thousand (\$3,000.00) dollars payable out of said "Flood Sufferers' Relief Fund," which shall be paid to the order of the mayor of the City of Socorro. The said sum herein appropriated shall be expended under the direction of the mayor and city council of the said City of Socorro for the purpose of completing the construction of a dyke to protect the said City of Socorro from flood waters. The said mayor and city council are hereby required to keep an itemized and accurate account of all disbursements made under the provisions of this

act and cause a full and complete report of the same to be made and sent to the governor of the territory upon completion of such dyke.

Sec. 11. There is hereby appropriated the sum of two thousand five hundred (\$2,500.00) dollars payable out of the said "Flood Sufferers' Relief Fund," for the purpose of constructing a dyke for the protection of the towns of San Marcial and Old San Marcial and the farms adjacent thereto, which sum of money shall be made payable to the order of such person as shall hereafter be designated by the governor of the territory who shall be a member of a commission to be composed of three persons, residents of the town of San Marcial, and the governor of the territory is hereby authorized and directed to select and appoint three suitable persons, one of which shall be a civil engineer and all of which persons shall be residents of the said town of San Marcial, to act as a commission with authority to supervise, direct, locate and control the construction of a dyke for the protection of the towns of San Marcial and lands adjacent thereto. Said commission shall keep an accurate itemized account of all expenses made hereunder and make a full and detailed report of their proceedings, setting forth the amount of work accomplished, the amount of cubic yards contained in such dyke and all other information incident to a complete report, which report shall be forwarded to the governor of the territory upon the completion of such dyke. The said commission is furthermore authorized and required to obtain the assistance and co-operation of the citizens of the town of San Marcial and Old San Marcial and corporations or railroad companies who may have a common interest in the protection of said towns from floods.

Sec. 12. There is hereby appropriated the sum of fifteen hundred (\$1,500.00) dollars payable out of the said "Flood Sufferers' Relief Fund," for the purpose of constructing a dyke for the protection of the town of Hillsboro from floods. The governor is hereby authorized and directed to designate and appoint a commission to be composed of three persons who shall be residents of the town of Hillsboro, which commission shall locate and shall have charge, control and direction of the construction of said dyke; construction to be made in a substantial manner and upon the completion thereof they shall render a complete report to the governor of the territory showing all disbursements made and the number of cubic yards contained and material used. The said appropriation of fifteen hundred (\$1,500.00) dollars herein provided shall be payable to the order of such person, as may be designated by

the governor of the territory who shall be one of the members of said commission herein provided for.

Sec. 13. The treasurer of the territory is hereby authorized to deduct from the proceeds of the sale of such certificates authorized to be sold under the provisions of this act all necessary expenses incident to the carrying out of the provisions of this act.

Sec. 14. This act shall take effect on and after its passage.

CHAPTER 4.

AN ACT FIXING THE TIME FOR HOLDING THE TERMS OF THE DISTRICT COURT IN THE FIFTH JUDICIAL DISTRICT OF THE TERRITORY OF NEW MEXICO. *C. B. No. 35; Approved February 9th, 1905.*

CONTENTS.

Sec. 1. Term of court in fifth judicial district, Eddy, Roosevelt and Chaves counties.

Sec. 2. All writs issued by district court returnable at the times and places designated in section 1.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The regular terms of the district court in the fifth judicial district of this territory shall hereafter be held and commenced as follows: In the County of Eddy, at the county seat of said county, commencing on the first Monday of March and the first Monday of September of each year; in the County of Roosevelt, at the county seat of said county, commencing on the first Monday of April and the first Monday of October of each year; in the County of Chaves, at the county seat of said county, on the third Monday of April and the third Monday of October of each year.

Sec. 2. Every writ, summons, bond, recognizances, subpoena, venire or other process whatever, which has been or may be issued or taken out from the district court for any of said counties in said district returnable to a regular term of court shall be returnable at the times and places designated in Section 1 of this Act and shall have the same force and effect as if the same had been made returnable at the times and places mentioned in said Section 1 of this Act.

Sec. 3. That an emergency exists and that this act shall take effect and be in force from and after its passage.

CHAPTER 5.

AN ACT TO ESTABLISH AN INSURANCE DEPARTMENT IN THE TERRITORY OF NEW MEXICO AND TO REGULATE INSURANCE COMPANIES DOING BUSINESS THEREIN. *H. B. No. 73; Approved February 9, 1905.*

CONTENTS.

- Sec. 1. Insurance department established.
- Sec. 2. Superintendent of insurance. Term. Qualifications.
- Sec. 3. Superintendent of insurance to take oath of office. Bond.
- Sec. 4. Salary of superintendent of insurance.
- Sec. 5. Seal of insurance department. Effect of sealed documents as evidence.
- Sec. 6. Office of superintendent of insurance. Employment of persons to make examinations of insurance companies.
- Sec. 7. Transfer of papers in other offices to office of superintendent of insurance.
- Sec. 8. Superintendent of insurance to keep and preserve records.
- Sec. 9. Superintendent of insurance to examine companies wishing to do business through agents. Examination of insolvent companies. Proviso. Fine for making false statements. Proviso.
- Sec. 10. Superintendent of insurance may publish result of examinations. Revocation of authority of unsound companies.
- Sec. 11. Fees.
- Sec. 12. Moneys to be paid into territorial treasury. Expenses of insurance department. Proviso. Accounts of superintendent to be audited.
- Sec. 13. Money collected to be turned over to territorial treasurer. Proviso.
- Sec. 14. Prohibition against adoption of similar names.
- Sec. 15. Prohibition against doing business for unauthorized companies. Penalty.
- Sec. 16. Qualifications of companies transacting insurance business in the territory. Foreign companies before doing business must appoint superintendent of insurance attorney for service. Contents of power of attorney. Superintendent of insurance to give notice of service to companies.
- Sec. 17. Charter of foreign companies and statement of financial condition required to be filed. Contents of statement. Proviso.
- Sec. 18. Annual statement of insurance companies to superintendent of insurance required. Information to be included in statement. Evidentiary value of company's refusal to comply with provisions of act.
- Sec. 19. Paid up capital required of insurance companies.
- Sec. 20. Duty of superintendent of insurance to examine form of all policy contracts. Prohibition against policies failing to provide for cancellation on equitable terms.
- Sec. 21. Penalty for violation of act.
- Sec. 22. Foreign companies to write no policies except on approval of resident agent.
- Sec. 23. Prohibition against re-insuring.
- Sec. 24. Superintendent of insurance authorized to examine books at principal office of company violating section 22. Penalty for refusal of company to allow inspection.
- Sec. 25. Exemption of fraternal, religious and benevolent societies from provisions of act. Exception. Fee for filing annual statement of fraternal, religious and benevolent societies. Mutual companies not exempted by provisions of this act.

- Sec. 26. Section 2136 of Compiled Laws of 1897, prohibiting mutual companies from doing business upon stock company plan, and vice versa, re-enacted. Section 2139, Compiled Laws of 1897, placing fine on fire insurance companies failing to give proper security, as required by Section 2138, Compiled Laws of 1897, re-enacted.
- Sec. 27. Scope of words "Insurance Company."
- Sec. 28. Reports hitherto sent to territorial auditor to be sent to superintendent of insurance.
- Sec. 29. Domestic companies to file copy of articles within 30 days after organization.
- Sec. 30. Sections, 2115, 2117-2120, 2122-2126, 2128-2135, Compiled Laws of 1897, relating to insurance duties of territorial auditor and certain requirements of insurance companies, repealed. Act of Legislative Assembly 1861, entitled "An Act to incorporate a fire company in the city of Santa Fe," repealed. Chapter 106, Laws of 1901, relating to transaction of business by fire insurance companies otherwise than through resident agents, repealed.
- Sec. 31. Act not to affect policies or insurance contracts in force before its passage.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That there is hereby established a department, to be known as the Insurance Department of the Territory of New Mexico, which department shall be charged with the execution of all laws now in force, or which shall hereafter be enacted, in relation to insurance companies doing business in the Territory of New Mexico.

Sec. 2. It shall be the duty of the governor, by and with the consent of the legislative council, to appoint a superintendent of insurance, who shall be the head of the said insurance department, and who shall hold his office for the period of two years and until a successor is appointed and qualified, but in no case shall such superintendent hold any position as an officer, agent or employe of any insurance company, nor shall he be directly or indirectly interested in any insurance company except as a policy holder.

Sec. 3. Such superintendent of insurance shall within thirty days after being so appointed, and before entering upon the discharge of the duties of his said office, take and subscribe an oath to support the Constitution of the United States and the Organic Act of the Territory of New Mexico and to faithfully and impartially perform the duties of his said office and shall also give a bond to the Territory of New Mexico in the sum of twenty thousand (\$20,000.00) dollars, conditioned for the faithful performance of all the duties required of him by law, which bond shall be approved by the governor and shall be filed and recorded, together with the said oath, in the office of the secretary of the territory.

Sec. 4. Such superintendent of insurance shall receive a salary of two thousand four hundred (\$2,400.00) dollars per annum, which shall be paid out of the insurance fund hereinafter provided for.

Sec. 5. The seal of the said insurance department shall be a circular disc with the word "Superintendent" in the center, surrounded by the words "Insurance Department of New Mexico," an impression of which shall be filed in the office of the secretary of the territory. Every certificate or other paper executed by said superintendent in pursuance of any authority conferred on him by law, and sealed with his seal office, and all copies of papers certified by said superintendent and authenticated by said seal, shall in all cases be evidence equally and in like manner as the original thereof, and shall have the same force and effect as the originals would in any suit or proceedings in any court of this territory.

Sec. 6. The said superintendent shall have an office at the territorial capitol, and may employ persons to make personal examination of the condition and affairs of insurance companies, when necessary, as required by law; and, whenever he may think necessary, he shall call upon the solicitor general of the territory for legal counsel and such assistance as may be necessary to enforce the provisions of this act.

Sec. 7. All books and documents and all other papers whatsoever relating to insurance, in the offices of any of the officers of the territory shall, on demand, be delivered and transferred to the superintendent of insurance, who shall give a receipt for the same, which shall be a full release from all responsibility in connection with such documents, books and papers.

Sec. 8. It shall be the duty of the superintendent of insurance to file in his office and safely keep all books and papers required by law to be filed therein, and to keep and preserve in permanent form a full record of his proceedings, including a concise statement of the condition of such insurance companies reported and examined by him, to issue certificates of authority to transact insurance business to any insurance companies which have fully complied with the laws of this territory, and to issue such other certificates as required by law in the organization of insurance companies and the transaction of the business of insurance and generally to do and to perform with justice and impartiality all such duties as are or may be imposed on him by the laws in relation to the business of insurance in this territory; and he shall, annually, at the earliest practical date after the returns are received from the several companies, make a report to the governor of the affairs of the insurance department, which report shall contain a tabular statement and synopsis of the several statements as accepted by the superintendent, and such other matters as in his

opinion may be of benefit to the public, and shall make such recommendations as he may deem proper in regard to the subject of insurance in this territory, and shall set forth in a statement, verified by oath and the certificate of the territorial auditor, the sums received and disbursed by him, from and to whom, and for what purpose. The superintendent of insurance shall, within ninety (90) days after entering upon the discharge of the duties of the office, furnish to all insurance companies doing business in this territory, a copy of this act, and necessary blanks to comply therewith, and shall annually, in December, furnish such blanks for the filing of statements as required by law. The superintendent on retiring from office shall deliver to his qualified successor, all furniture, papers and property pertaining to his office.

Sec. 9. The superintendent may, with the consent of the governor, whenever he deems it prudent, visit, and examine or cause to be visited and examined by some competent person, or persons he may appoint for that purpose, any insurance company applying for admission or already admitted to do business by agencies in this territory. Such examination shall include a thorough inspection and examination into its affairs, especially as to the financial condition and ability of said company to fulfill its obligations to the policy holders, and whether it has complied with the laws of this territory, and such company shall pay the proper charges incurred in such examination, including the expenses of the commissioner, or his deputies, and the expenses and compensation of his assistants employed therein. The superintendent may also make an examination, with the consent of the governor of any such company, upon the request of five (5) or more of the stockholders, creditors, policy holders, or persons pecuniarily interested therein, who shall make affidavit of their belief, with specifications of their reasons therefor in writing, that such company is in unsound or insolvent condition: *Provided*, That only the United States branches of all foreign companies in this territory may be examined by said superintendent. For the purpose aforesaid, the commissioner or his deputy or person making the examination, shall have free access to all books and papers of any insurance company that relate to its business, and the books and papers kept by any of its agents, and may summon and administer oaths or affirmations to witnesses, and examine the directors, officer, agents and trustees of any such company, and any other person, in relation to its affairs, transactions and conditions. He may require and compel the production of records, books, papers, contracts or other

documents by attachment, if necessary; and shall have the right to punish for contempt by a fine or imprisonment, or both, any person failing or refusing to obey such summons or order of such superintendent. Any person testifying falsely in reference to any matter, material to said investigation, examination or inquiry, shall be deemed guilty of perjury; and, in addition to the punishment for contempt in refusing to attend, or answer, or produce books and papers, any person who shall refuse to give such superintendent full and truthful information and answer in writing to any inquiry or question made in writing by said superintendent, in regard to the business or insurance carried on by such person, or to appear and testify under oath before the superintendent in regard to same, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred (\$500.00) dollars, or imprisonment not exceeding three (3) months.

Any director, officer, manager, agent or employe of an insurance company, or any other person, who shall make any false certificate entry or memorandum upon any of the books or papers of any insurance company, or upon any statement or exhibit filed or offered to be filed in the insurance department of this territory, or used in the course of any examination, inquiry or investigation, with the intent to deceive the superintendent of insurance, or any other person employed or appointed by him to make any inquiry, examination, or investigation, shall, upon conviction, be punished by a fine not exceeding one thousand (\$1,000.00) dollars and by imprisonment for not less than two (2) months in the county jail, nor more than five (5) years in the penitentiary: *Provided*, That any company whose license has been revoked by said superintendent, may appeal from said order to the district court, which court, upon the filing of the proper petition, shall cause the record and orders of the superintendent to be brought before it, and upon a hearing of the case by the court *de novo*, the court shall either confirm or revoke the order of said superintendent as in its discretion may appear just.

Sec. 10. When the superintendent deems it to the interest of the public he may publish the result of any examination or investigation in any newspaper of general circulation in the territory. When it appears to the superintendent of insurance from the report of the person appointed by him or other satisfactory evidence, that the affairs of any company doing business in the territory are in an unsound condition, he shall revoke the authority granted to such company to do business

in this territory and give such company and the agents thereof written notice of such action and after such notice it shall be unlawful for such company or any agent thereof to procure any applications for insurance or to issue or renew any policies.

Sec. 11. There shall be paid by every insurance company doing business in this territory, to the superintendent of insurance the following fees, viz: For filing the certified copy of articles of incorporation required by this act of the organization of each company \$50; for filing power of attorney and statement preliminary to admission, \$50; for filing copy of its charter or deed of settlement and examination thereof, \$50; for filing annual statement, \$20; for certificate of authority to transact business in this territory, \$2; for each copy of certificate of authority for use of agents, \$2; for each copy of any paper filed in his office, per folio 20 cents; for affixing the seal of his office and certifying any paper, \$1. All insurance companies, partnerships or associations engaged in the transaction of the business of insurance in this territory, shall annually on or before the first day of February, in each year, pay to the superintendent of insurance, 2 per cent. on the gross amount of premiums received or written within the territory during the year ending the previous 31st day of December; and insurance companies shall be subject to no other taxation than herein provided except upon real estate.

Sec. 12. All moneys received by the superintendent of insurance shall be paid in to the territorial treasury for an insurance fund within thirty days after the receipt of the same, and shall be used for the purpose of defraying the expenses of the insurance department. The territorial treasurer shall give duplicate receipts for all moneys thus paid into the territorial treasury, one of which shall be delivered to the territorial auditor and the other filed in the office of the superintendent of insurance. All expenses of the insurance department including salaries, shall be paid by the territorial treasurer out of the moneys in his hands to be known as the "Insurance Fund," on warrants drawn on such fund by the superintendent of insurance and approved by the territorial auditor: *Provided*, That the expense of said insurance department, exclusive of salaries shall in no event exceed the sum of twelve hundred dollars per annum; but no moneys shall be paid out of the territorial treasury in excess of the amount collected from insurance companies, as provided by this act. For all payments made by him the superintendent of insurance shall take proper voucher. The accounts of said superintendent of insurance for all re-

ceipts and disbursements by him made shall be audited, adjusted and settled at the close of each year by the territorial auditor.

Sec. 13. The superintendent of insurance shall at least once in every thirty days turn over to the territorial treasurer all moneys collected by the insurance department of the Territory of New Mexico, and the said treasurer shall apply all of said funds excepting such part thereof as may be necessary for the expenses of said insurance department, to the fund known as the fund for territorial purposes, to be thereupon and immediately used for the redemption of outstanding warrants and such other purposes as such fund is applied: *Provided*, That the treasurer shall annually on the first day of August of each year, pay to the treasurer of the fire departments of every city, town or village in this territory a sum of money equal to the amount received by such fire department under Section 2132 of the Compiled Laws of 1897 during the year 1904.

Sec. 14. No insurance company organized under the laws of this territory shall adopt the name of any existing company or association transacting a similar business or any name so similar as to be calculated to mislead the public.

Sec. 15. It shall be unlawful for any person, company or corporation in this territory either to procure, receive or forward applications for insurance in or to issue or to deliver policies for any company or companies not having complied with the provisions of this act, or to adjust any loss, or in any manner, either directly or indirectly to aid in the transaction of the business of insurance with any such company, unless duly authorized by such company and licensed by the superintendent of insurance, in conformity with the provisions of this act, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall for each and every offense, be punished by a fine of five hundred (\$500.00) dollars or imprisonment for six (6) months in the county jail, or both, in the discretion of the court.

Sec. 16. No company shall transact in this territory any insurance business, unless it shall procure from the superintendent of insurance a certificate stating that the requirements of the laws of this territory have been complied with, and authorizing it to do business. Said certificate shall expire on the last day of February in each year, and must be renewed annually. Every such company shall be required to procure, annually, for the use of its agents and solicitors, copies of such

certificate of authority, and any person soliciting business for any company authorized to transact business in this territory without first procuring a certificate from the superintendent of insurance, shall be guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine of one hundred dollars for each and every offense.

No insurance company or association, organized by any other authority than the Territory of New Mexico, shall, directly or indirectly issue policies, take risks or transact business in the territory until it shall have first appointed, in writing, the superintendent of insurance, to be the true and lawful attorney of such company or association in and for this territory, upon whom all lawful processes in any action or proceeding against the company may be served with the same effect as if the company existed in this territory. Said power of attorney shall stipulate and agree, upon the part of the company, that any lawful process against the company which is served on said attorney shall be of the same legal force and validity as if served upon the company, and that the authority shall continue in force so long as any liability remains outstanding against the company in this territory. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of superintendent of insurance, and copies certified by him shall be deemed sufficient evidence; service upon such attorney shall be deemed sufficient service upon the principal.

Whenever lawful process against any insurance company shall be served upon the superintendent of insurance, he shall forthwith, forward a copy of the process served on him, by mail, postpaid and directed to the secretary of the company, or, in case of companies of foreign countries, to the resident manager in this country; and shall also forward a copy thereof to the general agent of the said company in this territory. For each copy of process the superintendent of insurance shall collect the sum of two (\$2) dollars, which shall be paid by the plaintiff at the time of such service, the same to be recovered by him as part of the taxable cost, if he prevails in the suit.

Sec. 17. No insurance company, not incorporated, or organized under the law of this territory, shall transact any insurance business in this territory, unless it shall first file in the office of the superintendent of insurance a duly certified copy of its charter, or articles of incorporation, or deed of settlement together with a *statement*, under oath, of the president and secretary, or other chief officers of said company, showing the condition of affairs of such company on the 31st day of

December next preceding the date of such oath. The statement shall be in the same form and shall set forth the same particulars as the annual statement required by this act, and shall also, before permission is given to transact business and before the renewal of its certificate of authority, file a certificate signed by its president or chief officer to the effect that all the provisions of this act are accepted by it as a part of the conditions of its right and authority to transact business in this territory: *Provided*, That insurance companies complying with the provisions of this section shall not be required to comply with Section 1, of Chapter 65, of the Acts of the 35th Legislative Assembly of the Territory of New Mexico, entitled "An Act to regulate the admission of foreign corporations and providing a penalty for corporations failing to comply with the law," approved March 14, 1903.

Sec. 18. Every insurance company doing business in this territory shall on or before the first day of February in each year render to the superintendent of insurance a report, signed and sworn to by its chief officer, of its condition on the preceding 31st day of December, which shall include a detailed statement of assets and liabilities, the amount and character of its business transacted and moneys received and expended during the year, and such other information as the superintendent of insurance may deem necessary, and shall annually and at such other times as the superintendent may require make such report as may be prescribed by him of all re-insurance or cessions of risks or liabilities contracted for or affected by it in any manner whatsoever upon property located in this territory, such return to be verified by the oath of its president and secretary, if a company, society, association or partnership of one of the United States, and if of a foreign country by the oath of its manager in the United States. The refusal of any such company, society, association or partnership to make such return shall be presumptive evidence that it is guilty of violating the provisions of this act, prohibiting re-insurance of risks of a company not authorized to do business in this territory.

Sec. 19. No fire or life insurance company having capital stock shall be permitted to do any business in this territory unless it is possessed of an actual paid up cash capital as follows: Fire insurance companies of not less than two hundred thousand dollars, and life insurance companies not less than one hundred thousand dollars.

Sec. 20. That the superintendent of insurance shall have power and it shall be his duty to examine the form of all policy contracts hereafter issued or proposed to be issued by any

insurance company, association or corporation now authorized by law, or that may hereafter apply to be authorized to transact business of fire insurance in this territory. The superintendent of insurance shall refuse to authorize any fire insurance company, association or corporation to do business in this territory, whenever the form of policy, contract issued or proposed to be issued by any such company, association or corporation does not provide for the cancellation of the same at the request of the insured upon equitable terms; nor whenever the form of policy does not provide that in case the policy shall be cancelled at the request of the insured, *the premium having been actually paid*, that the unearned portion shall be returned on surrender of the policy or last renewal, the company in no event retaining an amount in excess of the amount shown to be the earned portion of said premium, as per the customary short-rate table.

Sec. 21. In case of any violation of this act it shall be the duty of the superintendent of insurance to revoke the authority of such company to do business in this territory, and the same shall not be renewed during a period of six (6) months thereafter.

Sec. 22. No fire insurance company, society, association or partnership not incorporated under the laws of this territory, but legally authorized to transact business herein, shall make, write, place or cause to be made, written or placed, any policy, duplicate policy or contract of insurance of any kind or character, or any general or floating policy, upon properly situated or located in this territory except after the said risk has been approved, in writing, by an agent who is a resident of this territory, regularly commissioned and licensed to transact insurance business herein, who shall countersign all policies so issued and receive the commission thereon when the premium is paid, to the end that the territory may receive the taxes required by law to be paid on the premiums collected for insurance on all property located in this territory.

Sec. 23. No fire insurance company, society, association or partnership shall reinsure or assume as a re-insuring company, or otherwise, in any manner or form whatsoever, the whole or any part of any risk or liability, covering property located in this territory, of any insurance company, society, association or partnership not authorized to transact business in the territory.

Sec. 24. Whenever the superintendent of insurance shall have or receive information that any fire insurance company, society, association or partnership, not incorporated under the laws of this territory has violated any of the provisions of Section 22 of this act, he is authorized at the expense of such com-

pany, society, association or partnership, to examine by himself or his accredited representative, at the principal office or offices of such company, society, association or partnership, located in the United States of America, or in any foreign country, and also at such other offices or agencies of such company, society, association or partnership, as he may deem proper all books, records and papers of such company, society, association or partnership, and may examine under oath the officers, managers and agents of such company, society, association or partnership as to such violation or violations. The refusal of any such company, society, association or partnership to submit to such examination or to exhibit its books and records for inspection shall be presumptive evidence that it has violated the provisions of the Twenty-second Section of this act, and shall subject it to the penalties prescribed and imposed by this act.

Sec. 25. The provisions of this act shall not be construed so as not to prevent any fraternal, religious or benevolent society from issuing indemnity to anyone against loss by death or accident of any of its members, and such society shall not be held amenable under or governed by any of the provisions of any article in this act pertaining to accident or life insurance, except as to rendering an annual statement of the condition of said association or society. The fee for filing the annual statement as herein provided shall be five (\$5.00) dollars. But all life and accident associations hereinafter organized under the laws of this territory to operate on the mutual assessment plan shall comply with all the provisions of this act so far as applicable, and shall be under the full supervision of the superintendent of insurance. All such companies now existing shall comply with this law, within ninety days after its approval, and thereafter shall be subject to examination; shall take out certificates of authority and in all ways contemplated herein be under the direction of the insurance department.

Sec. 26. No provisions of this act shall be so construed as to repeal Sections 2136 and 2139 of the Compiled Laws of the Territory of New Mexico for the year 1897, but said sections are hereby re-enacted and continued in force.

Sec. 27. The words "Insurance Company," as used in this act shall be held to include all companies organized for the purpose of insuring property against loss by fire, floods, tornado, or other accident; companies organized to write insurance upon the health of persons, against injury, disablement or death of persons; upon the lives of horses, cattle or other live stock; upon plate glass against breakage; upon steam boil-

ers against explosions, and against loss by burglary or theft or both, and companies guaranteeing the fidelity of persons holding places of trust, public or private, and titles to land.

Sec. 28. Whenever by the laws of the Territory of New Mexico as heretofore enacted reports are to be made or papers of any kind transmitted by or on behalf of insurance companies to the territorial auditor such reports shall be made and papers transmitted to the superintendent of insurance.

Sec. 29. All insurance companies organized under the laws of the Territory of New Mexico shall within thirty days after the completion of their organization file a certified copy of their articles of incorporation with the superintendent of insurance.

Sec. 30. That sections 2115, 2117, 2118, 2119, 2120, 2122, 2123, 2124, 2125, 2126, 2128, 2129, 2130, 2131, 2132, 2133, 2134, and 2135 of the Compiled Laws of 1897, of the Territory of New Mexico, and An Act of the Legislative Assembly of the Territory of New Mexico approved January 26, 1861, entitled, An Act to incorporate a fire company in the city of Santa Fe, and Chapter 106 of the Laws of the 34th Legislative Assembly, approved March 31, 1901, be and each of them are hereby repealed.

Sec. 31. Nothing in this act contained shall affect policies or insurance contracts issued and in force prior to the passage of this act, or the payment or collection of premiums thereon, and all the insurance companies now authorized to do business in this territory are hereby allowed a period of ninety (90) days within which to comply with the requirements thereof.

Sec. 32. This act shall be in full force and effect from and after its passage and approval.

CHAPTER 6.

AN ACT EMPOWERING CITIES AND TOWNS TO BUILD STREET CROSSINGS AND TO ASSESS THE COST THEREOF AGAINST PROPERTY OWNERS. *C. B. No. 19; Approved February 10, 1905.*

CONTENTS.

- Sec. 1. City council to establish district in which crossings desired. City engineer to make estimate of cost of crossings.
- Sec. 2. City council to name time and place at which property owners to be heard on necessity of crossing improvements. Notice of hearing.

- Sec. 3. Hearing as to necessity of crossing improvements.
- Sec. 4. City council to determine necessity of crossing improvements. Advertisement for bids. Contract for construction.
- Sec. 5. City council to determine amount of assessment.
- Sec. 6. Assessment lien on property assessed.
- Sec. 7. Rate of interest.
- Sec. 8. Cost of construction of crossings to parks and other public grounds.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever the city council of any city, whether incorporated under general or special laws, or the board of trustees of any town or village in the Territory of New Mexico, shall be of the opinion that the interests of said city, town or village require the construction of street or alley crossings within the limits of said city, town or village, such city council or board of trustees, having first been petitioned for that purpose by not less than five tax payers owning real estate fronting upon the streets over which crossings are desired and sought to be constructed, shall make an order establishing a district in which such crossings are desired, and shall order the city engineer to make an estimate of the total cost of the street crossings within said district according to the material to be used in the construction thereof and as petitioned for as in this section provided.

Sec. 2. Upon the filing of the report of such engineer, said city council or board of trustees shall name a time and place at which the owners of property in the said district may appear before said city council or board of trustees and be heard as to the necessity of making such public improvements as are provided for in section one hereof, as to the cost and material thereof, the manner of payment and as to the amount to be assessed against the real property of the district provided for in section one hereof and as determined upon by the said city council or board of trustees. Thirty days' notice of the time and place of such hearing shall be given by publication in some newspaper of general circulation in said city, town or village, and a notice in writing of such time and place shall be served at least five days before said hearing by the city marshal upon each of the real property owners in said district by delivering a copy thereof to each of said property owners, if he can be found, otherwise by delivering a copy thereof to some person residing on said property, or by posting a copy of the notice upon said property in the event the same shall be vacant and the owner thereof unknown or not found, and the marshal in his return of service of each of said notice shall state the man-

ner of making service, which said notice and return thereof shall be filed with the city clerk of said city or recorder of said town or village.

Sec. 3. At the time and place so fixed as aforesaid, any owner of real property in the district named in the order in section one hereof provided, may appear before said city council or board of trustees shall determine what portion of such construction of said street or alley crossings and as to the cost thereof, the material of which the same shall be constructed and as to the amount to be assessed against the real estate in the district.

Sec. 4. After such hearing, said city council or board of trustees shall at once determine as to the necessity of construction of said street and alley crossings, the kind of material to be used in the construction thereof, and shall proceed to advertise for bids for the doing of the work therefor and shall enter into a contract for the doing of such work and the furnishing of all necessary material to the lowest bidder.

Sec. 5. After the making of such contract, said city council or board of trustees shall determine what portion of such work shall be paid by each real property owner in the district and shall assess to each lot or parcel of land in the district its proportionate share of such total amount.

Sec. 6. The amount so assessed shall be a lien upon such lot or parcel of land from the date of the assessment, and if such amount be not paid within thirty days from and after the completion and acceptance of such work, it shall be the duty of the city clerk of said city or recorder of the town or village to make out, sign, attest with the seal of said city and file for record in the office of the probate clerk and ex-officio recorder of the county in which said city, town or village is located, a claim of lien therefor; and all subsequent purchasers, mortgagees or incumbrancers of such lot or parcel of land shall take the same subject to such lien.

Sec. 7. Such liens shall bear interest at the rate of eight per cent. per annum from the date of the filing thereof until paid and after such recording may be sold and assigned to any person for its face value with interest and may be foreclosed at any time after such recording in the same manner as now provided for the foreclosing of mortgages upon real estate.

Sec. 8. In the event there shall be situate in said district any public park, square, plaza or other public grounds belonging to the city or town, the cost of construction of all crossings to and from said park, square, plaza or other public grounds shall be distributed equally and so charged against the real

property in the district held in private ownership, as well as also the cost of any and all sidewalks, curbing or other street improvements by ordinance provided to be made in the streets abutting and adjoining said park, square or other public ground.

Sec. 9. This act shall take effect and be in force from and after its passage.

CHAPTER 7.

AN ACT TO PROVIDE FOR THE CONSTRUCTION OF A SYSTEM OF PUBLIC HIGHWAYS IN THE TERRITORY OF NEW MEXICO AND THE USE OF CONVICT LABOR THEREFOR AND FOR OTHER PURPOSES. C. S. for C. B. No. 38; Approved February 10, 1905,

CONTENTS.

- Sec. 1. Public highway called "El Camino Real" established. Northern terminus. Route of "El Camino Real."
- Sec. 2. Construction and maintenance of highway to be under direction of board of penitentiary commissioners and superintendent of penitentiary. Convict labor to be employed.
- Sec. 3. Additional good time allowance for convicts employed.
- Sec. 4. Civil engineer to be employed when necessary. Compensation.
- Sec. 5. Boards of county commissioners to secure right of way, and to construct the necessary bridges. Proviso.
- Sec. 6. Board of county commissioners to levy to provide funds for necessary bridges.
- Sec. 7. Construction and maintenance within municipal corporations.
- Sec. 8. Materials to be used in construction of bridges and culverts.
- Sec. 9. Stone monuments to be erected along highway.
- Sec. 10. Stone arch to be erected at plaza at Santa Fe.
- Sec. 11. Appropriation for carrying on the work. How payable. Territorial auditor to levy annually. Money to be paid out on vouchers of superintendent of penitentiary approved by board of penitentiary commissioners. Territorial auditor to draw warrant.

Whereas, There is a constantly growing demand among the citizens and tax-payers in favor of the establishment of a uniform system of good roads and for the employment of convict labor in the construction, improvement and maintenance thereof; and

Whereas, Such employment would furnish convicts a healthful exercise in the open air, conducive to their physical and moral welfare, and is, perhaps, the only method of employing convict labor without conflicting with the just rights of free labor; and

Whereas, Numerous petitions have been presented to this body signed by citizens and tax-payers of the counties of Col-

fax, Mora, and San Miguel, requesting that the convicts be employed in the extension of the highway known as the Scenic Route, northward to the Colorado state line, in order that connection may be had with the system of roads in that state:

Now therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. There is hereby established a public highway through the Territory of New Mexico, to be known as "El Camino Real," which said highway shall have for its northern terminus a point in the Raton mountains on the state line between Colorado and New Mexico, where the old Barlow and Sanderson stage road, known as the "Santa Fe Trail" crossed the state line, running thence in a southerly direction and following the old Santa Fe trail as nearly as practicable through the city of Raton, the town of Cimarron, to the village of Rayado; thence to the town of Ocate; thence to the town of Mora; thence to the city of Las Vegas; thence following the route of the highway established by Chapter 56 of the Session Laws of 1903, and known as the Scenic Route to Santa Fe, the capital of the Territory of New Mexico; thence in a southerly direction via the town of Cerrillos to San Pedro; thence to the city of Albuquerque by the most feasible and picturesque route; thence south, crossing the Rio Grande at the town of Barelaz, through the counties of Bernalillo, Valencia and Socorro, through the towns of Los Lunas, Belen, Socorro, San Antonio, San Marcial, to Engle; thence in a southerly direction across the Jornada del Muerto to a point near old Fort Selden; thence in a southerly direction, upon the high lands adjacent to the valley of the lower Rio Grande, reaching the towns of Dona Ana, Las Cruces and Mesilla Park, to the place known as Anthony, on the state line between the Territory of New Mexico and the state of Texas.

Sec. 2. The construction, repair and maintenance of said public highway shall be done under the authority and control of the board of penitentiary commissioners and superintendent of the territorial penitentiary, and said board is hereby authorized and required to construct said road, by the use of the labor of the penitentiary convicts, from the city limits of Santa Fe and Las Vegas to the western and eastern boundary lines of the Pecos forest reserve respectively, and said board is hereby authorized and required to then construct that portion of said highway between the city of Raton and the Colorado line, after which the other portions of said highway shall be

constructed as rapidly as possible from Las Vegas in a northerly direction and from Santa Fe in a southerly direction, as well as also, in like manner to construct such extensions of said road and such other roads leading to said public highway as may from time to time be provided for by acts of the Legislative Assembly.

Sec. 3. The board of penitentiary commissioners are hereby empowered to adopt a special rule, applicable solely to convicts employed on the public work herein authorized and contemplated, whereby convicts so employed shall be granted additional good time allowance, conditioned upon their good behavior and cheerful compliance with all rules that may be made by said board or said superintendent for the management and control of convicts so employed.

Sec. 4. The superintendent of penitentiary is empowered and authorized to employ a competent civil engineer, from time to time as may be necessary, who shall, under the direction of said superintendent survey and locate said road, said engineer to be paid not to exceed the sum of five dollars per day and legitimate expenses for each day actually and necessarily employed, to be paid by the respective counties in which said work is done, and the board of county commissioners of any county through which said road passes are hereby authorized and required to pay said engineer upon vouchers drawn by the superintendent of the penitentiary, or the board of penitentiary commissioners, the amount due him for the work done in said county out of the road fund, or the general fund of the county.

Sec. 5. The boards of county commissioners of the several counties of the territory through which said public highway passes are hereby authorized and required to secure the right-of-way for said highway wherever necessary, and to construct the necessary bridges thereon, in accordance with the laws of the territory now in force relative to the procuring of right-of-way for public roads and the construction of bridges: *Provided*, That all bridges shall be constructed under the supervision and according to plans approved by the engineer employed by the board of penitentiary commissioners, and *Provided Further*, That as far as practicable culverts across small gulches may be constructed by convict labor, any material necessary to be purchased for such culverts to be paid for by the respective counties.

Sec. 6. At the time provided by law for the making of levies for purposes of taxation, the boards of county commissioners of the several counties, through which said public highway passes, are authorized and required to make a levy of not

to exceed one mill upon the dollar of taxable property in the county, the funds derived from which levy shall be exclusively used in the construction of the necessary bridges along said public highway in the county wherein said levy is made.

Sec. 7. In incorporated cities and towns along said public highway, the municipal authorities shall construct and maintain said public highway.

Sec. 8. So far as practicable all bridges and culverts along said public highway shall be constructed of timber, stone or concrete, and no structural iron shall be used in the construction of any bridge except where absolutely necessary.

Sec. 9. At suitable points along said public highway, and at places of historic interest, there shall be erected stone monuments commemorative thereof, which said monuments shall be erected by labor of penitentiary convicts.

Sec. 10. There shall be erected at the southeast corner of the public plaza in the city of Santa Fe, immediately opposite the old Exchange hotel, known as the "Fonda," a stone arch, with suitable inscription marking the same as a principal point on the Santa Fe trail; said arch shall be constructed by convict labor upon plans to be secured and selected by the board of penitentiary commissioners and the mayor and city council of the city of Santa Fe.

Sec. 11. The sum of ten thousand dollars is hereby appropriated out of any funds in the territorial treasury except the interest fund, for carrying on the work provided for by Chapter 56 of the Session Laws of 1903, and the work provided for by this act, payable on the vouchers of the superintendent of the penitentiary and approved by the board of penitentiary commissioners upon warrants drawn by the territorial auditor for the purpose of paying the necessary extra guards and foreman, and for the purchase of tools, implements, blasting material and supplies, and equipment necessary in the prosecution of said work, and for transportation, and necessary expenditure incident to the fulfillment of the provisions of this act; and the territorial auditor shall on or before the first day of May, 1905, and annually thereafter, levy a tax of one-fourth of one mill on the dollar upon all taxable property in the territory, which levy shall be certified by the auditor to the boards of county commissioners of the several counties of this territory at the same time as other tax levies are so certified each year, and the same shall be levied by said boards of county commissioners at the same times as other territorial taxes are levied and so collected, and the money de-

rived from such levy shall be used for carrying on the work provided for by this act, and shall be paid out on the itemized vouchers of the superintendent of the penitentiary and approved by the board of penitentiary commissioners upon warrants drawn by the territorial auditor, and in no other manner.

Sec. 12. This act shall take effect and be in force from and after its passage.

CHAPTER 8.

AN ACT TO PROVIDE FUNDS FOR THE PURPOSE OF DEFRAYING THE EXPENSE OF BOARDING PRISONERS. *H. B. No. 70; Law by Limitation, February 15, A. D. 1905.*

CONTENTS.

Sec. 1. Special levy for defraying expenses of boarding county prisoners. Proviso.

Sec. 2. Boarding prisoners' fund.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter the board of county commissioners in counties of the first class may cause to be levied and collected annually, a special tax, of not exceeding three mills on the dollar, for the purpose of providing funds to defray the expenses of boarding county prisoners in county jails.

Provided, That in any county of the first class where the funds heretofore provided by law for such purpose have been insufficient, or have in any manner failed to be available for such purpose, the taxes derived from the levy hereby authorized shall first be applied to the payment of any outstanding claims against such county, on account of boarding such prisoners.

Sec. 2. The moneys hereby derived shall be kept in a separate account, to be known as the Boarding of Prisoners' Fund, and shall be used for no other purpose than as in this act specified.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force from and after its passage.

CHAPTER 9.

AN ACT TO ORGANIZE AND EQUIP A COMPANY OF MOUNTED
POLICE FOR THE TERRITORY OF NEW MEXICO. *A. C. B.*
No. 26; Approved February 20, 1905.

CONTENTS.

- Sec. 1. Governor to organize company of New Mexico mounted police. Officers. Salary.
- Sec. 2. Governor to appoint officers. Duties of captain.
- Sec. 3. Equipment of company furnished by territory.
- Sec. 4. Equipment furnished by members of company. Proviso.
- Sec. 5. Term of enrollment.
- Sec. 6. Authority of captain to suspend.
- Sec. 7. Exchange of equipment prohibited unless commanding officer consents.
- Sec. 8. Captain to direct operations.
- Sec. 9. Rules and regulations of United States Army to govern.
- Sec. 10. Captain authorized to concentrate or divide company, at discretion. Company at all times subject to orders of governor. Exemption from military, jury and other service. Governor to direct all arrangements necessary for enforcement of act.
- Sec. 11. Members of company to arrest criminals.
- Sec. 12. Warrants for pay of company.
- Sec. 13. Levy for New Mexico mounted police fund. Proviso.
- Sec. 14. Expense of organization.
- Sec. 15. Insignia of company. Appropriation for contingent expenses of company.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the governor of this territory is hereby authorized to raise and muster into service of this territory, for the protection of the frontier of this territory, and for the preservation of the peace and the capture of persons charged with crime, one company of New Mexico mounted police, to be raised as hereinafter prescribed, and to consist of one captain, one lieutenant, one sergeant, and not more than eight privates, each entitled to pay as follows: Captain to receive two thousand (\$2,000.00) dollars per annum, lieutenant to receive fifteen hundred (\$1,500.00) dollars per annum, sergeant to receive twelve hundred (\$1,200.00) dollars per annum, and private to receive nine hundred (\$900.00) dollars per annum each, and the pay herein provided shall be full compensation in lieu of all other pay and compensation, including clothing and all other expenses for officers and men.

Sec. 2. That the governor is authorized and empowered, within sixty days after the passage of this act, to appoint competent persons as captain, lieutenant and sergeant, and to en-

roll, as set forth in this act, the requisite number of men for the company; the captain shall return to the governor the muster roll and the report of the condition of the company, and the governor shall thereupon commission the officers of the said company, supply said company, as under the provisions of this act he may deem proper and necessary, and order them upon duty in accordance with the provisions of this act.

Sec. 3. Said men shall be furnished by the territory with the most effective and approved breech-loading rifles, and for this purpose the governor is hereby authorized to contract in behalf of the territory for eleven stands of arms, together with a full supply of ammunition, the same to be all of the same make and calibre, and each member of the company to be furnished with the arms to be used by him at the price the same shall cost the territory, which sum shall be retained out of the first money due him.

Sec. 4. Each member of said company shall be required to furnish himself with a suitable horse, six-shooting pistol (army size) and all necessary accoutrements and camp equipage, the same to be passed upon and approved by the enrolling officer before enlisted; and should any member fail to keep himself furnished as above required, then the officer in command shall be authorized and required to purchase the articles of which he may be deficient, and charge the cost of the same to the person for whom the same shall be provided: *Provided*, That all horses killed in action shall be replaced by the territory, and the cost of horses so killed in action shall be determined by the captain.

Sec. 5. The men shall be enrolled for twelve months, unless sooner discharged and at the expiration of their term of service they shall be again enrolled, or others shall be enrolled to supply their places.

Sec. 6. The captain of such company has authority to suspend any member for cause and shall immediately report his action in writing to the governor for his consideration.

Sec. 7. No member of said company shall dispose of or exchange his or their horses or arms without the consent of the commanding officer of the company while in the service of the territory.

Sec. 8. That the captain of the company shall use his own discretion as to the manner of operations, selecting as his base the most unprotected and exposed settlement of the territory.

Sec. 9. That the troops raised under and by virtue of this act shall be governed by the rules and regulations of the army of the United States, as far as the same may be applicable, but

shall always be and remain subject to the authority of the Territory of New Mexico for frontier service.

Sec. 10. The captain of such company shall have authority to concentrate all of such company, or divide it into squads for the purpose of following and capturing any outlaws, law breakers, marauding Indians or bands of hostile Indians or for the purpose of carrying out any measure that may contribute to the better security of the frontier; but the entire force raised under the provisions of this act shall be at all times during their employment, as aforesaid, under and subject to the orders of the governor, and shall be exempt from all military, jury and other services, except that for which they shall be appointed or controlled as aforesaid, and that the governor shall direct all the arrangements necessary to carry out the intentions of this act, with full power to remove any officer or man thereof for incompetency, neglect of duty or disobedience of orders.

Sec. 11. Members of said company shall have full power to make arrests of criminals in any part of the territory, and upon the arrest of any criminal, shall deliver the same over to some peace officer in the county where the crime is committed.

Sec. 12. It shall be the duty of the auditor of this territory to draw his warrant on the territorial treasurer at the end of each month for the pay of each officer and man in said company, and to forward the same to the captain of said company; and it shall be the duty of the territorial treasurer to pay such warrants out of the fund for mounted police, as other warrants are paid.

Sec. 13. There shall be annually levied and collected in addition to all other taxes authorized by law a tax of one-half mill on taxable property in this territory, to be placed in a fund by the territorial treasurer, to be known as the New Mexico Mounted Police Fund, and upon which fund all warrants and payments made under any of the provisions of this act, shall be drawn and made. Said tax shall be levied and collected in the same manner, and at the same time and by the same officers as other territorial taxes: *Provided*, That until collections shall have been made under the provisions of the levy herein authorized for the payment of such mounted police that the territorial treasurer shall pay the same out of any funds, except the interest and sinking funds, in the territorial treasury.

Sec. 14. That no portion of said troops shall become a charge against this territory until organized and placed under orders, and the total cost and expense of the organization,

equipment and support of said company shall not exceed the sum of thirteen thousand (\$13,000.00) dollars for any one year.

Sec. 15. The captain of said company shall provide and issue to each member of said company, a badge, uniform in size and shape, with the words "New Mexico Mounted Police," inscribed thereon in plain, legible letters, which said badge shall belong to, and be returned to this territory, and be returned to it by the possessor thereof, when any member of such company shall cease to be a member thereof; a sum not exceeding twelve hundred (\$1,200.00) dollars per annum, is hereby appropriated for the contingent expense of such company, which shall be paid in the same manner as heretofore provided in this act, and out of which shall be bought and paid for the arms hereinbefore provided, and such other incidental expenses as shall be necessary for the carrying out of the provisions provided for in this act. All such incidental expenses or contingent expenses shall be accounted for by itemized voucher duly certified to by the captain of such mounted police and approved by the territorial auditor, but no expense of any kind shall be incurred or allowed in any one year in excess of the sum of twelve hundred (\$1,200.00) dollars.

Sec. 16. This act shall take effect and be in full force from and after its passage.

CHAPTER 10.

AN ACT TO ABOLISH THE COUNTY OF SANDOVAL CREATED BY AN ACT ENTITLED "AN ACT TO CREATE THE COUNTY OF SANDOVAL, APPROVED MARCH 10, 1903" AND CREATING A NEW COUNTY WITH DIFFERENT BOUNDARIES WITH THE NAME OF SANDOVAL. *H. B. No. 89; Approved February 20, 1905.*

CONTENTS.

- Sec. 1. County of Sandoval, created March 10, 1903, abolished.
- Sec. 2. New County of Sandoval created. Boundaries.
- Sec. 3. County seat.
- Sec. 4. Records of old County of Sandoval to be records of new county, so far as records relate to rights within new county.
- Sec. 5. Precincts and school districts to remain unchanged.
- Sec. 6. Rights conferred by Chapter 27, Laws of 1903, relating to the issue of bonds to provide for indebtedness due Bernalillo county repealed. Sections 12 and 13, Chapter 27, Laws of 1903, relating to the issuing of bonds to provide for indebtedness due Bernalillo county repealed.

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- Sec. 7. Amount of indebtedness to be assessed and paid by County of Sandoval to County of Bernalillo.
- Sec. 8. Board of county commissioners to levy special tax annually until bonds can be issued. Amount raised by levy to be paid to Bernalillo county. Money received to be used by Bernalillo for payment of interest on original bonded indebtedness.
- Sec. 9. Board of county commissioners to make levy for collection of interest on indebtedness. Levies made under provisions of Chapter 27, of Laws of 1903, to be used for payment of indebtedness.
- Sec. 10. Mandamus proceedings to enforce levy and collection.
- Sec. 11. Legislative representation.
- Sec. 12. County of Sandoval attached to second judicial district. Term of court. District attorney. Salary. Transfer of causes from old to new county.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The County of Sandoval created by an act to create the County of Sandoval, approved March 10, 1903, be and the same is hereby abolished.

Sec. 2. That there be and is hereby created a county to be known as and called the County of Sandoval out of that portion of the Territory of New Mexico, included within the following boundaries, to-wit:

Beginning at a point three miles north of the southwest corner of township twenty-three north of range seven west of the New Mexico principal meridian according to the public land surveys of the United States, and running thence east along the line three miles north of the line between townships twenty-two and twenty-three north to the said principal meridian, which line shall form a part of the southern boundary of Rio Arriba county; thence south along said principal meridian to the fifth standard parallel north; thence east along said fifth standard parallel north to the range line between ranges six and seven east at the northwest corner of township twenty north in range seven east; thence south along said range line between ranges six and seven east; the same being the western boundary of Santa Fe county to the southeast corner of township twelve north in range six east of said principal meridian; thence west along the township line between townships eleven and twelve north, said line being the northern boundary of Bernalillo county to the boundary line of Valencia county at the northwestern corner of Bernalillo county; thence in a northwesterly direction along the boundary line of Valencia county to the third standard parallel north; thence west along said third standard parallel north, to the southeastern corner of McKinley county; thence north and along the eastern boundary line of McKinley county to the fifth standard parallel north at the southwest corner of town-

ship twenty--one north in range four west; thence west along said fifth standard parallel north to the southeast corner of San Juan county at the southwest corner of township twenty-one north in range seven west, and thence north along the range line between ranges seven and eight west, said line being the eastern boundary of San Juan county, to the place of beginning.

Sec. 3. The county seat of the said County of Sandoval is hereby established at the town of Bernalillo in said county.

Sec. 4. The books, funds, records, accounts, vouchers, and files of all kinds of the said old County of Sandoval hereby abolished, so far as they relate to or affect persons, rights and property within the limits of the said new County of Sandoval hereby created, are declared to be the records and property of said new County of Sandoval, and the county officers now regularly in office in said old county of Sandoval shall be and continue as the officers of said new County of Sandoval, until their successors are duly elected or appointed and qualified.

Sec. 5. The precincts and school districts now existing in the territory included within the limits of said new County of Sandoval as hereinbefore set forth, shall as far as practicable consistently with the provisions of this act, remain the same as now constituted until changed as provided by law, and the respective precinct and district officers shall continue in office until their successors are duly elected or appointed and qualified according to law.

Sec. 6. All rights and privileges conferred upon the said old County of Sandoval by the provisions of Chapter 27 of the Session Laws of 1903, are hereby transferred and given to the said new County of Sandoval, which is to that extent to be considered as the successor of said old County of Sandoval, and sections 12 and 13 of said Chapter 27 are hereby repealed.

Sec. 7. Whereas it appears that according to the terms of the Act hereby amended and from the assessed valuation of property and the indebtedness of the original County of Bernalillo and the value of permanent improvements which would remain to the County of Bernalillo after the creation of the said County of Sandoval, that the sum of sixty-six thousand (\$66,000) dollars is a fair, just and equitable amount of the indebtedness of the said original County of Bernalillo to be assumed by the said County of Sandoval under and by the virtue of the provisions of Section 11 of the Act of the 35th legislative assembly, approved March 10th, 1903, entitled "An Act to create the County of Sandoval," being Chapter 27; *Be it Enacted.*

That the proportion and amount of indebtedness, due and owing by the County of Bernalillo, as it existed before the passage of said Act of the 35th legislative assembly, entitled "An Act to create the County of Sandoval," approved March 10, 1903, to be assumed and paid by the said County of Sandoval is hereby fixed at the sum of sixty-six thousand (\$66,000) dollars, and said amount of indebtedness is hereby declared to be due and owing from the said County of Sandoval to the County of Bernalillo.

Sec. 8. And whereas it is alleged that the County of Sandoval cannot issue any valid bonds at this time under the terms of Sections 12 and 13 of the said original Act creating the said County of Sandoval and under the terms of this Act creating the County of Sandoval as the successor of said county created under the provisions of said Chapter twenty-seven of the Session Laws of 1903, for the reason that such bonds would be in excess of the amount of indebtedness authorized to be contracted by the said County of Sandoval under the terms and provisions of the act of congress approved July 30, 1886, and being entitled "An Act to prohibit the passage of local or special laws in the territories of the United States, and to limit territorial indebtedness and for other purposes," (24 statutes at large, page 170); *Be it Further Enacted*,

That until valid bonds can be and are issued and disposed of for the purpose of paying said indebtedness as fixed in the preceding section of this act at the sum of sixty-six thousand (\$66,000) dollars, the board of county commissioners of the said County of Sandoval be and they hereby are required to levy a special tax for the current year, and for each year thereafter until said bonds can be and are issued and disposed of and said indebtedness paid, sufficient to raise the sum of three thousand three hundred (\$3,300) dollars each year, being five per cent. upon the said sum of sixty-six thousand (\$66,000) dollars, and being the rate of interest which said bonds would bear if they could be validly issued, and to pay the said sum of three thousand three hundred (\$3,300) dollars to the said County of Bernalillo annually, one-half thereof on the first days of July and January of each year hereafter, the first payment commencing with the first day of July, A. D., 1905, which said sum of three thousand three hundred (\$3,300) dollars shall be used by the said County of Bernalillo for the payment of the interest upon the original bonded indebtedness of the said county as it existed before the passage of said act creating the County of Sandoval, and of which the county created by this act is the successor, and which said

bonds are still outstanding, and which said sum of sixty-six thousand (\$66,000) dollars represents an equitable and just proportion of the said indebtedness of the said original County of Bernalillo which was required to have been taken up and assumed by the said County of Sandoval under the terms of the said original act creating the said county, and which said sum is hereby created and declared to be a liability of the County of Sandoval created by this act.

Sec. 9. A sufficient levy shall be made by the county commissioners of the said County of Sandoval to collect the said sum of three thousand three hundred (\$3,300) dollars and said levy shall be kept separate and distinct from any other levy made by the said county commissioners of said county, and which said sum when so levied and collected shall be paid over to the said County of Bernalillo, and shall be used by the said County of Bernalillo for the sole purpose of paying interest upon its outstanding bonded indebtedness, until the said County of Sandoval can legally issue bonds and pay the said County of Bernalillo the said sum of sixty-six thousand (\$66,000) dollars: *Provided, Further,* That any levies heretofore made by the County of Sandoval created by said Chapter 27 of the Session Laws of 1903, for the purpose of raising funds with which to defray and pay interest on said indebtedness, shall be paid into the fund created by this act to pay interest upon said indebtedness to the County of Bernalillo, and shall be used for like purposes.

Sec. 10. Be it further enacted, that the provisions of this act with reference to the levy of said taxes and the collection and payment of the money realized therefrom to the said County of Bernalillo or the payment and transfer into said fund of any taxes heretofore paid or to be collected from levies made prior to the passage of this act, if the said county commissioners of Sandoval county fail or refuse to levy and collect the same, or transfer such taxes already collected or to be collected from levies heretofore made to such fund, and pay over said money to the said County of Bernalillo, the same may be enforced by mandamus or other proper proceeding in the district court of the second judicial district of the Territory of New Mexico, for the County of Sandoval, said proceedings being subject to appeal as in other cases.

Sec. 11. For legislative purposes the said new County of Sandoval shall elect one representative, and the counties of Bernalillo, McKinley and Sandoval shall elect one member of the council jointly.

Sec. 12. The said new County of Sandoval is hereby attached

for judicial purposes to the second judicial district, and a district court for the trial of causes arising under the laws of the territory shall be held twice a year by the judge of said district at the county seat of said county on the second Mondays respectively before the first Monday in March and the first Monday in September in each year; and the district attorney for the fourth district attorney's district shall be the district attorney for said County of Sandoval, and his salary from the said County of Sandoval shall be the same as that paid by the County of McKinley. All causes, whether civil or criminal, now pending in the district court for the said old County of Sandoval shall continue and be transferred to the district court of the new County of Sandoval, and shall be triable in said last mentioned court the same as they might or could have been in the district court of said old County of Sandoval if this act had not been passed.

Sec. 13. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and take effect from and after the eighth day of May, A. D., 1905.

CHAPTER 11.

AN ACT TO AMEND SECTION 541 OF THE COMPILED LAWS OF THE TERRITORY OF NEW MEXICO. A. C. B. No. 32; *Approved February 20, 1905.*

CONTENTS.

Sec. 1. Section 541, Compiled Laws of 1897, fixing boundary lines between Counties of Taos and Rio Arriba, amended. New boundaries. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the dividing line between the Counties of Taos and Rio Arriba shall be and the same is hereby amended so as to read as follows: Section 541. That the dividing line between the Counties of Taos and Rio Arriba shall be changed so as to read as follows: The same shall be a straight line from the point where the present dividing line between said counties crosses the Rio Grande; thence to the north side of the house known as that of Antonio Domingo Lucero, deceased; thence west, crossing the Ojo Caliente river to the

summit of the Hot Springs mountains; and thence north to the junction of the Canada de los Comanches with the Ojo Caliente river, and thence following the wagon road to the crossing of the Tres Piedras arroyo west of the house of Juan Estevan Rodriguez, deceased, at the town of Tres Piedras; then running west with said arroyo for a distance of one mile; thence north for a distance of one mile; thence east to the present dividing line of said counties; and thence to the southern boundary of the state of Colorado. *Provided*, that this will not affect any litigation now pending in said Counties of Rio Arriba and Taos.

Sec. 2. That all acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect from and after its passage.

SECTION 12.

AN ACT PROVIDING FOR THE PAYMENT AND DISTRIBUTION OF MONEYS AND FUNDS BELONGING TO INSOLVENT ESTATES OF DECEASED PERSONS. C. B. No. 17; Approved February 20, 1905.

CONTENTS.

Sec. 1. Funds of insolvent estate to be divided pro rata among creditors, after payment of necessary expenses in settlement of estate.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. All moneys or funds belonging to the state of any deceased persons now or hereafter remaining in the hands of any administrator or administratrix, executor or executrix of any estate, which is being or hereafter may be administered in this territory, when the estate is or may be insolvent, after the payment of all the necessary expenses of settling such estates, whether such administration, or proceedings, be original or ancillary, shall be divided and paid pro rata to and among such of the creditors of such estate as have or may have proven up their claims and had them allowed in this territory as provided by the laws of this territory.

Sec. 2. This act shall be in full force and effect from and after its passage and all acts and parts of acts in conflict therewith are hereby repealed.

CHAPTER 13.

AN ACT TO REPEAL A CERTAIN ACT, ENTITLED "AN ACT TO REPEAL AN ACT OF THE TWENTY-EIGHTH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, ENTITLED 'AN ACT TO DEFINE THE OFFENSE OF LIBEL AND AFFIX THE PUNISHMENT THEREFOR, PASSED OVER VETO JANUARY 30, 1889,' APPROVED FEBRUARY 8, 1893." C. B. No. 36; *Approved February 22, 1905.*

CONTENTS.

Sec. 1. Chapter 14, Laws of 1903, repealing Chapter 2, Laws of 1889, defining and punishing libel, repealed. Chapter 2, Laws of 1889, revived.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the act of the legislative assembly of this territory approved February 8th, 1893, entitled "An Act to repeal an act of the 28th legislative assembly of the Territory of New Mexico, entitled 'An Act to define the offense of libel and affix the punishment therefor,' be and the same is hereby repealed, and said act of the said 28th legislative assembly entitled "An Act to define the offense of libel and affix the punishment therefor, passed over veto January 30th, 1889," be and the same is hereby revived.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 14.

AN ACT ENTITLED "AN ACT TO AMEND SECTION 2, OF CHAPTER 44, OF THE LAWS OF THE 33RD LEGISLATIVE ASSEMBLY APPROVED MARCH 15, 1899," THE SAME BEING AN ACT FOR THE PROTECTION OF THE STOCK RAISERS AND TO PREVENT THE SALE OF DRESSED MEATS THAT HAVE BEEN STOLEN IN THE TERRITORY OF NEW MEXICO. C. B. No. 27; *Approved February 22, 1905.*

CONTENTS.

Sec. 1. Section 2, Chapter 44, Laws of 1899, relating to the record of brands, amended.

Sec. 2. Preservation of brand records. *Proviso.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 2 of Chapter 44 of the laws of the 33rd legislative assembly of the Territory of New Mexico, entitled, "An Act for the protection of stock raisers and to prevent the sale of dressed meats from animals that have been stolen in the Territory of New Mexico, approved March 15, 1899," be amended to read as follows:

Sec. 2. That the record of marks and brands and description of hides of animals, the meat of which is purchased by butchers or dealers in fresh meats, as provided for in Section 1 of this Act, shall be preserved by him and at all times kept in a convenient place for the inspection of the inspectors appointed by the sanitary board, of the cattle owners and of any other persons who may be interested in such hides, or the animals from which the same were taken to the officers of the law.

Provided: Any person selling or offering for sale any fresh meats as prescribed in this bill the same having been killed within the territory, shall produce at the time of said sale or offer for sale is made, the hide of the animal or animals, the meat of which he sells or offers to sell. And if such person shall upon the demand of any hide or cattle inspector of the cattle sanitary board, or any peace officer or any other person, fail to produce and exhibit the hide or hides of such animal or animals, at the time such sale or offer for sale is made, they shall be deemed guilty of a felony and upon conviction thereof in any of the courts of this territory, having jurisdiction of such cause, shall be fined in any sum not less than twenty-five nor more than three hundred dollars or by imprisonment for a term of not less than six months nor more than two years or both in the discretion of the court trying said cause.

This proviso shall not apply to nor be in force against persons who may have purchased meat from any person or persons who have displayed to the purchaser the hide or hides of the animal or animals from which said meat was taken.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 15.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATING TO CORPORATIONS, DOMESTIC AND FOREIGN, PRESCRIBING FEES TO BE PAID FOR FILING THEIR ARTICLES, AND FOR OTHER PURPOSES, APPROVED MARCH 19, 1908," AND AN ACT ENTITLED "AN ACT REQUIRING CORPORATIONS TO PUBLISH THEIR ARTICLES OF INCORPORATION, APPROVED MARCH 21, 1901." C. B. No. 2; *Approved February 22, 1905*

CONTENTS.

- Sec. 1. Section 1, Chapter 114, Laws of 1903, regarding filing fees of articles of incorporation, amended. Fees of water users' associations.
- Sec. 2. Chapter 27, Laws of 1901, regarding the publication of articles of incorporation, not to apply to water users' associations mentioned in section 1.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the second paragraph of Section one of Chapter 114, of the Session Laws of New Mexico of 1903, entitled "An Act relating to corporations, domestic and foreign, prescribing fees to be paid for filing their articles, and for other purposes, approved March 19, 1903," be amended by adding thereto, after the words "but in no case less than twenty-five dollars, (\$25.00;" the following: *Provided*, That for all waters users' associations incorporated under the laws of the Territory of New Mexico, pursuant to and in accordance with the provisions of an act of congress, and the regulations issued by the secretary of the interior thereunder, entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain states and territories to the construction of irrigation works for the reclamation of arid lands, approved June 17, 1902," the fee shall be one dollar; and, *Provided, Further*, That any filing fees in excess of one dollar heretofore paid by any such water users' association shall be refunded to the association paying the same by the treasurer of the Territory of New Mexico out of any funds in the treasury.

Sec. 2. That the provisions of chapter 27 of the session laws of New Mexico of 1901, entitled "An Act requiring corporations to publish their articles of incorporation, approved March 21, 1901," shall not apply to water users' associations of the character mentioned in Section 1 of this Act.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and effect from and after its passage.

CHAPTER 16.

AT ACT FIXING THE TIME FOR HOLDING THE TERMS OF THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT OF THE TERRITORY OF NEW MEXICO. C. B. No. 22; Approved February 22, 1905.

CONTENTS.

- Sec. 1. Term of court in first judicial district, Santa Fe, San Juan, Taos and Rio Arriba counties.
Sec. 2. All writs issued by district court returnable at the times and places designated in section 1.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The regular terms of the district court for the first judicial district of the Territory of New Mexico shall hereafter be held and commenced as follows:

In the County of Santa Fe, at the county seat of said county, commencing on the first Monday of March and September of each year.

In the County of San Juan, at the county seat of said county, commencing on the first Monday of May and second Monday of October of each year.

In the County of Taos, at the county seat of said county, commencing on the third Monday of May and the second Monday of November of each year.

In the County of Rio Arriba, at the county seat of said county, commencing on the second Monday of June, and the fourth Monday of November of each year.

Sec. 2. Every writ, summons, recognizance, subpoena, or other process whatever which has been issued or taken out from the district court for any county in said district, shall be returnable at the times and places designated in Section 1 of this Act, and shall have the same force and effect as if the same had been made returnable at the times and places mentioned in said Section 1 of this act.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act to take effect from and after its passage.

CHAPTER 17.

AN ACT TO REGULATE THE USE OF ARTESIAN WELLS AND TO PREVENT THE WASTE OF SUBTERRANEAN FLOWS OF WATER AND FOR OTHER PURPOSES. *C. B. No. 20; Approved February 22, 1905.*

CONTENTS.

- Sec. 1. Insecurely cased artesian wells.
- Sec. 2. Persons permitting unnecessary flow, guilty of misdemeanor.
- Sec. 3. Definition of artesian well. Proviso.
- Sec. 4. Definition of waste. Proviso.
- Sec. 5. Manner of casing.
- Sec. 6. "Artesian Districts," to be created by governor. Supervisor. Duties. Compensation.
- Sec. 7. License imposed. Fund created from revenue of licenses.
- Sec. 8. Duties of county commissioners, road supervisor and city engineer, in regard to violations of act.
- Sec. 9. Persons before boring to notify supervisor. Authority of supervisor to condemn casing.
- Sec. 10. Filing of sworn statement as to wells.
- Sec. 11. Supervisor to take pressure readings.
- Sec. 12. Penalty for violation of act.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That any artesian well which is not tightly and securely cased, capped or furnished with such mechanical appliances as will readily and effectively arrest and prevent the flow of water from such well, is hereby declared to be a public nuisance. The owner, tenant or occupant of the land upon which such well is situated who causes, permits or suffers such public nuisance, or suffers or permits it to remain or continue, is guilty of a misdemeanor.

Sec. 2. Any person owning, possessing or occupying any land upon which is situated an artesian well, who causes, suffers or permits the water to unnecessarily flow from such well or to go to waste, is guilty of a misdemeanor.

Sec. 3. An artesian well is defined for the purpose of this act, to be any artificial well, the waters of which if properly cased will flow continuously over the natural surface of the ground adjacent to such well at any season of the year: *Provided*, Nothing in this act shall apply to water flowing from mining shafts.

Sec. 4. Waste is defined for the purpose of this act to be the causing, suffering or permitting the water flowing in such well to reach any porous substratum before coming to the

earth's surface, or to flow from such wells, unnecessarily upon any land, or directly or indirectly into any river, creek or other natural water course or channel, or into any lake or pond, or into any street, road or highway, unless it be used on lands for beneficial purposes: *Provided*, That this section shall not be so construed as to prevent the use of such water for domestic purposes or the proper irrigation of agricultural lands by direct flow or from storage reservoirs furnished by such wells, or for supplying or helping to supply through natural or artificial water courses or channels, public or private irrigation canals or systems, or for ornamental ponds, or fountains, or for ponds used for the propagation of fish, and provided where the water so used for the maintenance of ornamental ponds, fountains, or ponds for the propagation of fish shall in any case not be greater than would flow through a pipe one inch in diameter.

Sec. 5. Any person hereafter boring or causing to be bored, an artesian well, shall case the same, with a good quality of casing, sufficient in all instances to resist the pressure of the water, the entire depth of the well to and into the last strata of rock, immediately above the flow of water, and shall keep a complete and accurate record of the depth and thickness of the different strata penetrated, which he shall verify under oath and when the well is completed shall file said record in the office of the district artesian well inspector, where it shall be carefully preserved.

Sec. 6. To provide additional security for carrying out the provisions of this act the governor of the territory may from time to time, as he sees fit, or shall upon the request by petition of five per cent. (5 per cent.) of the qualified voters of any county, or county-ties, create "artesian districts," consisting in each case of not less than one county or more than four adjacent counties, and shall thereupon appoint for each such district so created, a "district artesian well supervisor" who shall be qualified by both education and experience in artesian well matters and resident of the district for which he is appointed. It shall be the duty of such supervisor, to inspect each artesian well in such district at least once in each three (3) months, and to keep a record of such inspections, in a book in his office, which said record shall at all times be open to the inspection of any person. It shall be the further duty of such supervisor to see that the provisions of this act are faithfully carried out within his district and for this purpose he shall have all the powers conferred upon county and city officers in Section eight (8) of this Act. It shall be the duty of such supervisor to make complaint and appear against any

person violating any provisions of this act within his district, unless such complaint has already been made as provided in Section eight (8) of this Act, in which case he shall appear and assist in such prosecution. The supervisors so appointed shall receive as their full compensation for their services, the sum of \$1,000.00 per annum, together with actual expenses while absent from his office, if this amount shall be collected from licenses hereinafter provided for, but in no case shall such supervisor receive more than the amount annually paid in on such licenses.

Sec. 7. For the purpose of creating a fund for the payment of the salaries of the several district artesian well supervisors, and the expenses incident to the prosecution in cases of violation of this statute, a license is hereby imposed upon each artesian well in each districts of \$5.00 per annum, and it shall hereafter be unlawful for any person, company or corporation to permit any artesian well to flow or to take water therefrom, without first having paid such license therefor. Such license shall be paid to the treasurer of the county wherein such artesian well is situated, who shall keep a record thereof in his office, and the respective county treasurers shall pay over to the territorial treasurer all money derived from such licenses, (less four per cent. (4 per cent.), which shall be allowed the county treasurer for the collection of such licenses) in like manner as provided by law for the payment to such territorial treasurer of territorial taxes. Such fund shall be kept separately for each of such artesian districts, by such territorial treasurer and shall be used exclusively for the payment of the respective district artesian well supervisors, and the expenses of prosecution for violations of the provisions of this act, which said salaries and expenses shall be paid in the manner of paying territorial officers and expenses.

Sec. 8. It shall be the duty of the county commissioners, road supervisors city engineer, or city officers, upon complaint of any citizen within their respective counties, districts or cities and for that purpose may, at all times, enter upon the premises where such well is situated, to institute or cause to be instituted criminal actions for all violations of the provisions of this act, and for all public offenses defined by this act, committed within such county, district or city.

Sec. 9. All persons before beginning to bore an artesian well in any artesian well district, shall first notify the district artesian well supervisor, stating in writing the location of such proposed well, and shall thereafter, from time to time, furnish to said district artesian well supervisor such information concerning such well and casing used, as such supervisor shall

request. The supervisor shall have power and authority to condemn the casing and other appliances for controlling the water in any artesian well, which are, in his judgment, unsuitable for the purpose intended and required.

Sec. 10. All persons or corporations now owning or controlling, or using artesian wells, and all persons who shall hereafter own, control or use an artesian well in any artesian well district, shall file a sworn statement in the office of the probate clerk of the county in which such well is situate, setting forth the date when such well was commenced, and the date when completed, the amount of water flowing therefrom and the use made of the water from such well.

Sec. 11. It shall be the duty of the artesian well supervisor to take pressure readings of each artesian well at each inspection herein provided for, and to carefully keep a record of the same in his office, to be turned over, together with all other records of his office, to his successor.

Sec. 12. Any person violating any of the provisions of this act may be proceeded against for a misdemeanor in any justice's court in the county in which such offense is committed, or such well is located, in the manner prescribed by law, and shall, upon conviction, be fined for each offense not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00). There shall also, upon conviction, in addition to such fine, be taxed against the convicted party, the costs of prosecution. Each day in which any of the provisions of this act shall be violated shall be considered a separate offense.

This act shall take effect and be in force after thirty days from the date of its approval.

CHAPTER 18.

AN ACT FOR THE PROTECTION OF PROPERTY FROM THE WATERS OF THE RIO GRANDE. *A. C. B. N. 59; Approved February 22, 1905.*

CONTENTS.

- Sec. 1. Election of boards of river commissioners.
- Sec. 2. Commissioners to take oath.
- Sec. 3. Improved real property in valley of Rio Grande, subject to taxation.
- Sec. 4. River commissioners to give notice of labor required. Duty of land owners to furnish labor. Provisos.
- Sec. 5. Amount of labor to be furnished.
- Sec. 6. River commissioners to pro rate amount of labor.

- Sec. 7. Compensation of river commissioners. Proviso. Election of officers. Duties.
- Sec. 8. Condemnation of property. Appraisement of property condemned.
- Sec. 9. Vacancy in boards of river commissioners.
- Sec. 10. Refusal to furnish labor, a misdemeanor.
- Sec. 11. Provisions inapplicable to counties of first class.
- Sec. 12. Meetings of board. Proviso.
- Sec. 13. Entry on private land under provisions of act, not trespass.
- Sec. 14. River commissioners to suspend unnecessary collections.
- Sec. 15. River commissioners authorized to enter adjoining county.
- Sec. 16. Sections 807, 808, 809, 810, 811, 812, 813, 816 and 817, of Compiled Laws of 1897, regarding tax levy for protection of property along Rio Grande, repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. There shall be elected, at each general election, in the Counties of Valencia, Socorro and Dona Ana, by the legal electors of those precincts, along the margins of the Rio Grande del Norte, five persons, legal voters in each one of said counties, in said counties and precincts, respectively, who shall constitute a board of river commissioners, for each of said counties respectively; and said commissioners shall hold their office until their successors shall be duly qualified.

Sec. 2. The said commissioners, before entering upon the discharge of their duties, shall respectively take and subscribe an oath that they will support the Constitution of the United States, and to faithfully discharge the duties of their office, which said oaths shall be recorded in the office of the clerk of the probate court of said counties.

Sec. 3. All cultivated or improved real property situate within the valley of the Rio Grande shall be subject to taxation for the purpose of carrying out the provisions of this act, and every owner or property situated in said valley within five miles of either side of said Rio Grande, shall be required to pay in proportion to the value of such property to the river commissioners of the county in which such property shall be situated, a pro rata share of the labor necessary to prevent such property from damage and injury by the waters of said Rio Grande, and also for the purpose of draining any lakes or marshes caused by the overflow of said river or otherwise.

Sec. 4. That whenever the river commissioners of any county shall deem it necessary for the protection of any property in their respective counties from said waters, it shall be their duty to give each of said owners or their agents or lessees due notice of the number of days labor required of each of said owners respectively, and the time when such labor shall be required for the purpose aforesaid; and thereupon it shall be the

duty of any and all such owner or owners to furnish such river commissioners with the labor so in said notice specified, or pay to said river commissioners the sum of one dollar for each day's labor so required and mentioned in said notice: *Provided*, That the aggregate of cash and of labor estimated at one dollar per day for each laborer required of any one of such owners or taxed against any property, shall not exceed for any one year more than a sum of twenty dollars: *Provided, Further*, That whenever the use of teams and scrapers, or teams and wagons shall be deemed necessary by such commissioners they shall so state in such notice, and all owners of property having teams and scrapers are hereby required to furnish such teams and scrapers, or teams and wagons in lieu of labor, at the rate of two dollars per day, for each team and scraper, and team and wagon so furnished.

Sec. 5. All able bodied male persons over the age of twenty-one and under the age of sixty, residing in the valley of the Rio Grande, or within five miles of either side of said Rio Grande, are hereby required to furnish, not to exceed three days' labor, or in lieu of said labor, to pay to such river commissioners, cash at the rate of one dollar per each day's labor so required by such river commissioners to be furnished. The said river commissioners shall give due notice to such persons setting forth the number of days labor required in the same manner as provided for in Section 4 of this Act.

Sec. 6. Said river commissioners are hereby respectively authorized and empowered finally and without appeal to fix in a summary manner the pro rata amount of labor as in their judgment may be necessary to be done and furnished by each and all such owner or owners of such property, or such persons respectively in the county for which such river commissioners are qualified to act, and to direct and superintend the doing of all work and the expenditure of all money received in lieu of labor, as in their judgment may be necessary for the protection of such property, and the fulfillment of the purposes of this act.

Sec. 7. Said river commissioners respectively, shall be entitled to receive for every days work necessarily performed by each of them in the superintending and direction of the duties required by this act, the sum of two dollars per day, which compensation may be deducted from any money collected in lieu of labor, and such commissioners shall be exempt from taxation hereunder: *Provided*, That such river commissioners shall in no event retain for their services for any one year a sum exceeding fifty dollars.

It shall be the duty of said river commissioners to organize by electing a president, secretary and treasurer, each of whom

shall be a member of said river commission; all moneys collected shall be turned over to the treasurer of such board of river commissioners, who shall give a good and sufficient bond in the sum of five hundred dollars, conditioned upon the faithful performance of his duty as such treasurer and the accounting and disbursement of all moneys placed in his hands as such treasurer; such bond shall be made to the county for which such commissioners shall be acting, and shall be subject to the approval of the county commissioners of such county. The secretary of said board of river commissioners shall keep a true and accurate record of all proceedings and shall make out an annual report which shall be made and rendered on the first Monday of January of each year to the board of county commissioners, setting forth the number of days labor performed in pursuance of this act, and also all disbursement of moneys paid out, to whom paid, and for what purpose, and the sums of moneys collected, in lieu of labor; and any and all moneys on hand at the expiration of the term of office of any such treasurer shall be turned over to his successor in office. All disbursements of moneys hereunder, shall be paid upon a warrant drawn against the treasurer, which shall be signed by the president of such board and attached by the secretary. The said board is hereby directed, authorized and required to make such regulations governing their procedure, as in their judgment may be necessary for the carrying out of the provisions of this act.

Sec. 8. Whenever, in the judgment of said river commissioners it shall be necessary to use any underbrush, timber or land, or other material, for the protection of any property as hereinbefore provided, the said river commissioners are hereby empowered to condemn such land or brush, or timber, and appoint a commission of three citizens of such county wherein such land, or timber or underbrush, may be located to appraise the value thereof, and such appraisal shall be final; and the said river commissioners shall cause to be paid to such owners of such land, timber or brush, so condemned, the sum of money in accordance with the findings of such commission so appointed, or if such owner of such land, timber or brush, shall have been required to furnish labor for the purposes hereinbefore mentioned, then, and in such event, they may deduct such amount of money equivalent to the labor so required, to be furnished by such owner of such land, timber or underbrush.

Sec. 9. Wherever and whenever there may be a vacancy in the board of river commissioners of any county of this terri-

tory, the county commissioners of such county are hereby authorized, empowered and required to fill such vacancy by appointment.

Sec. 10. If after due notice as aforesaid, any such owner or person or persons shall refuse or neglect to furnish the labor, or the money value thereof as fixed by this act, to said river commissioners, as herein provided, such owner, person or persons, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars, nor more than twenty dollars.

Sec. 11. The provisions of this act shall not apply to counties of the first class.

Sec. 12. The meetings of said board shall be held publicly at the county seat of said county, and at any time on the call of two members of the board, three members of which being sufficient to form a quorum for the transacting of business, and a majority of those present being necessary to make any order, or approve any account: *Provided*, That in the event of imminent danger, the board may meet at any place threatened, and proceed to the transaction of business, and in the absence of the clerk, may appoint a temporary clerk, who shall return a record of the proceedings had, to the clerk for record.

Sec. 13. The necessary entry on any private land, for the purpose of checking the river under the provisions of this act, shall not be considered as a trespass, and no court shall adjudge any damages therefor. And the fact of the taking of any earth, stone or turf, when the same shall be necessary for the purposes of this act, shall be considered legal. the said river commissioners to pay to the owners of such earth, stone or turf so taken a reasonable compensation for the same.

Sec. 14. When the river commissioners shall consider the collection of any assessment in any precinct or precincts unnecessary, they shall order that such collections be suspended until further order from the board of river commissioners.

Sec. 15. The board of river commissioners, and the laborers under their charge, are authorized to enter into the adjoining county for carrying out the purpose of this act, and work in said adjoining county when it may be necessary to prevent damages in the county which said river commissioners represent.

Sec. 16. That sections 807, 808, 809, 810, 811, 812, 813, 816 and 817, of the Compiled Laws of 1897, of this territory, and all other acts or parts of acts in conflict herewith, are hereby repealed.

Sec. 17. This act shall be in full force and effect, from and after its passage.

CHAPTER 19.

AN ACT ENTITLED AN ACT TO PROVIDE MEANS FOR CONSTRUCTING AND MAINTAINING DYKES AND SUCH DAMS, EMBANKMENTS, AND DITCHES AND OTHER STRUCTURES AS MAY BE NECESSARY TO PROTECT LIVES AND PROPERTY AGAINST FLOODS, AND TO AUTHORIZE THE LEVY OF A TAX THEREFOR. C. S. for H. B. No. 4; Approved February 22, 1905.

CONTENTS.

- Sec. 1. County commissioners to levy for creation of "County Flood Fund."
- Sec. 2. Inspection of streams by county commissioners. Expenditure for construction of dykes. Engineer to submit plans.
- Sec. 3. County commissioners to select sites for the construction of dykes. Cost of construction to be paid out of "County Flood Fund." Engineer to supervise work.
- Sec. 4. Work to be let on contract upon bids submitted.
- Sec. 5. Cost of construction to be paid by warrant upon county treasurer.
- Sec. 6. County commissioners permitted to enter upon lands for carrying out provisions of act. Condemnation of land.
- Sec. 7. County commissioners to call out able bodied men at times of exceptional danger.
- Sec. 8. Method of serving notices for work. Compensation of officers serving notices.
- Sec. 9. Fine for failure to furnish work.
- Sec. 10. Officer receiving money in lieu of work to keep correct account. Penalty for failure to account for money collected.
- Sec. 11. Powers of county commissioners in times of emergencies.
- Sec. 12. Commissioners of adjoining counties authorized to expend money jointly.
- Sec. 13. Office of "River Commissioners," in counties of first class, abolished.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Sec. 1. The several boards of county commissioners of the different counties of the first class in this territory may in their discretion levy annually a tax on all the taxable property located within five miles of both sides of any river running through such counties, to any amount not exceeding two mills on each dollar of all property situated within said distance from such river at the assessed value thereof for the purpose of creating a fund out of which to construct and maintain dykes, dams, embankments and ditches, or such other structures as shall be deemed proper to prevent flood waters from damaging property or human lives within such counties; such tax to be assessed, levied and collected as other taxes are collected, and when so collected to be known as a "County

Flood Fund." And subject to disposition under provision of this act by the boards of county commissioners of said counties.

Sec. 2. The boards of county commissioners of said counties are hereby authorized and empowered to cause to be inspected and examined the streams and water courses in their counties where flood waters are accustomed or liable to cause damage to property or life, and for that purpose are authorized to appoint and employ a competent civil engineer.

And the said boards are further authorized to expend the fund created by this act, or so much thereof as may be necessary, in accordance with plans submitted by such engineer as hereinbefore provided for the purpose of constructing and causing to be built such dykes, embankments, dams, ditches or other structures as may be necessary to control such flood water and protect life and property in their said counties against loss and damage.

Sec. 3. Said boards are hereby authorized in their discretion at any regular or special session to pass upon the necessity for doing any of the work provided for by this act, and may by order, upon the report of such engineer, select and locate sites, and cause to be built and constructed, such dykes, embankments, dams, ditches or other structures as may be necessary to control such flood waters; the cost of which shall be paid out of the fund created by this act, and authorized to be assessed, levied and collected. All such work shall be done under the direction and supervision and control of the engineer authorized to be employed by said board.

Sec. 4. All permanent improvement or work authorized under provision of this act shall be let to contract after proper advertisement in the official newspaper of the county in which such work is to be done, giving notice of the time and place when the contract will be let, and of the work to be done, so that bidders may have full opportunity to bid on said work. After such advertisement for not less than two weeks, the contract shall be let to the lowest responsible bidder, and the said board shall require from the said bidder a good and sufficient bond for the faithful performance of this contract, and no money shall be paid on such contract, except upon approval by the board of county commissioners of the work done and upon the report of the said engineer.

Sec. 5. Upon approval of the work by said county commissioners and the ordering of the bills for the same, the cost thereof shall be paid by warrant upon the treasurer and ex-officio collector of said counties drawn on said fund; and no

warrant or voucher shall be drawn against such fund except for the purposes provided in this act.

Sec. 6. Such boards of county commissioners, their agents and employes shall have free and unobstructed ingress and egress to any and all lands and premises necessary to carry out the provision of this act; be the same enclosed or otherwise, for the purpose of making preliminary surveys and locating sites, and shall not be liable to damages because of such entry except for wanton or malicious injury to such premises or property; and said boards of county commissioners may cause such sites and the ground selected by them on which to erect or construct dykes, dams, embankments, ditches or other structures provided for by this act, to be condemned in the manner provided by law for the condemnation of property for public uses, and the expense thereof including the value of the land so taken shall be paid out of the said fund.

Sec. 7. Said boards of county commissioners in all cases when property or lives are threatened by sudden flood waters against which provision has not already been made, under preceding sections of this act, are hereby authorized to summon and call out all able bodied male persons under the age of sixty years residing within the area hereinbefore prescribed, that is to say within five miles on each side of such stream or river, causing such flood and require them to work for not to exceed five days during any calendar year when their services may be so needed; and persons having teams may also be summoned and required to appear with their teams for the same number of days; any person so summoned may render the said services in person or he may furnish a substitute or pay in cash the sum of \$1.50 per day for each days service required of him.

Sec. 8. For the purpose of summoning the persons authorized to be summoned as provided in the last section the said boards of county commissioners shall have the right to require the sheriff, any of his deputies, or any constable of any precinct or his deputies to serve necessary notices requiring such persons to appear at the time and place mentioned in such notices and render the labor and services thereby authorized to be required or to furnish his substitute or pay the money in lieu thereof as provided by this act; and provided that such officers shall make a correct list of the names of all persons so summoned and file the same with the board of county commissioners.

The said officers by whom such notices are to be served shall receive a compensation of \$2.50 per day while actually engaged in serving the same to be paid out of said fund.

Sec. 9. If any person required to do work under provision of this act after having received notice as herein provided, shall fail to appear and do said work, furnish his substitute or pay the said sum of \$1.50 per day in place of said work to the officer serving said notice on him, he shall be fined upon complaint being made before any justice of the peace in the county, in a sum of not less than \$5 or more than \$25, or by imprisonment in the county jail not to exceed ten days, or by both such fine and imprisonment.

Sec. 10. The officer to whom any money shall be paid in lieu of work shall keep a correct list of the names of the persons paying the same, and shall make immediate report of the names of such persons and the moneys paid to the county treasurer, taking his receipt for the money, and the said treasurer shall place the same to the credit of the said "County Flood Fund." And if any such officer shall fail to account for money collected by him as herein provided, he shall upon indictment and conviction for such failure be punished by a fine not to exceed \$200, or imprisonment in the county jail not to exceed six months or by both fine and imprisonment, at the discretion of the court trying the case.

Sec. 11. The said boards of county commissioners are hereby authorized and empowered in time of emergency, of sudden floods to order headgates of ditches to be closed; ditches to be cut according to the necessity existing at the moment for the protection of property and life from overflows; and said board shall also have the power to cause to be drained all flood waters through ditches or other channels already cut or to be cut for the purpose in any district within the county, using the necessary and ordinary precaution therefor.

Sec. 12. The boards of commissioners of such counties of the first class are hereby authorized and empowered to jointly expend money with the boards of commissioners of adjoining counties or to locate dykes, dams, embankments, ditches and other structures without their counties, when such location is deemed necessary for the purpose of protecting property within their counties.

Sec. 13. In counties of the first class hereinbefore referred to and as defined by the laws of the territory the office of "River Commissioners" is hereby abolished.

This act shall apply to said counties only.

Sec. 14. All acts and parts of acts in conflict herewith are hereby repealed; and this act shall be in force from and after the date of its passage.

CHAPTER 20.

AN ACT TO AMEND CHAPTER 69 OF THE SESSION LAWS OF THE 35TH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, BEING "AN ACT TO CREATE THE COUNTY OF LEONARD WOOD," AND FOR OTHER PURPOSES. *H. B. No. 16; Law by Limitation, February 23, 1905.*

CONTENTS.

- Sec. 1. Chapter 69, Laws of 1903, creating County of Leonard Wood, amended. "Guadalupe," submitted for "Leonard Wood," as name of county.
- Sec. 2. Section 12, Chapter 69, Laws of 1903, regarding legislative district of Leonard Wood county, amended. County of Guadalupe attached to second council district and sixteenth house district.
- Sec. 3. Section 13, Chapter 69, Laws of 1903, regarding the appointment of peace officers, repealed.
- Sec. 4. Section 14, Chapter 69, Laws of 1903, declaring Leonard Wood, Quay and Roosevelt to be counties of the fourth class, amended. Guadalupe, Quay and Roosevelt, counties of third class.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Chapter 69 of the Session Laws of the 35th legislative assembly of the Territory of New Mexico, being the laws of 1903, be and the same hereby is amended by striking out from the said chapter and from each and every section thereof, wherever the same may occur, the words "Leonard Wood," and inserting in lieu thereof the word "Guadalupe;" and that the county by said act created shall be henceforth known as the County of Guadalupe in lieu and instead of the name by said act to it given, to-wit: The County of Leonard Wood.

Sec. 2. That Section 12 of said Chapter 69 be and the same hereby is amended to read as follows:

"The County of Guadalupe shall be attached for legislative purposes to the second council district, and the County of Guadalupe and the County of Quay shall constitute the sixteenth house district, and shall be entitled to one representative until otherwise provided by law."

Sec. 3. That Section 13 of said Chapter and Act is hereby repealed.

Sec. 4. That Section 14 of said Chapter 69 is hereby amended to read as follows:

"That the Counties of Guadalupe, Quay and Roosevelt are hereby declared to be counties of the third class."

Sec. 5. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in force from and after its passage.

CHAPTER 21.

AN ACT IN RELATION TO THE MANAGEMENT OF THE COMMUNITY LAND GRANTS IN THE COUNTY OF DONA ANA, A. C. B. No. 31; Approved February 23, 1905.

CONTENTS.

- Sec. 1. Management of community land grants in Dona Ana county, vested in boards of trustees. Proviso.
- Sec. 2. Boards of trustees, bodies corporate. Service of process.
- Sec. 3. Qualifications of members of boards.
- Sec. 4. Election of board of trustees.
- Sec. 5. Duty of board to call an election for choice of successors.
- Sec. 6. Qualifications for voting. Number of trustees to be elected. Term. Oath.
- Sec. 7. Duties of president and secretary-and-treasurer.
- Sec. 8. Powers of board of trustees.
- Sec. 9. Disposition of land—how made effective.
- Sec. 10. Meetings of board. Time. Quorum. Vacancies. Expenses.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the management and control of the community land grants within the County of Dona Ana, in the Territory of New Mexico, and the legal and equitable title to all the lands within the exterior boundaries of such grants to which any colony or community is entitled at the time of the passage of this act, are hereby vested in boards of trustees, each which shall be elected as hereinafter provided: *Provided, However,* That nothing in th^s act contained shall be construed to in any way affect any land grant now incorporated under the provisions of any general or special act of this territory.

Sec. 2. That each of such boards shall be a body corporate, having full power to sue and be sued, besides the other powers hereinafter mentioned. In all suits the said body corporate shall be styled, "The Board of Trustees of the _____ Community Grant," and all process may be served on either the president or the secretary-and-treasurer of the board of trustees.

Sec. 3. That all members of such boards of trustees shall be inhabitants of, and the owners of lands within the limits of the particular grant for which they shall have been elected trustees.

Sec. 4. That upon the petition of twenty or more inhabitants of, and owners of lands within, any one of such land grants, it shall be the duty of the board of county commissioners of the said county of Dona Ana to order an election to be held for the choice of a board of trustees for the grant specified in the petition. Such board of county commissioners shall appoint three competent and disinterested persons, qualified to vote under the provisions of this act, to serve as judges of such election and shall by proclamation printed at least once a week for two successive weeks in some newspaper of general circulation published in the said County of Dona Ana give notice of the time and place of such election and the objects thereof.

Sec. 5. That within thirty days of the expiration of the terms of office of any such board of trustees, it shall be the duty of such board to call an election for the choice of their successors, to fix the time and place for the holding of the same, to appoint qualified persons to act as judges thereof, and to give notice of such election in the manner and for the length of time specified in the preceding section.

Sec. 6. That at all the elections hereinbefore provided to be held, each actual inhabitant of such grant and owner of land therein, being over the age of twenty-one years, shall be entitled to cast one vote in person, and the five persons receiving the highest number of votes so cast at any such election shall be the trustees of the grant and hold their offices for the period of two years and until their successors shall be elected and qualified.

At the first election to be held under the provisions of this act the votes shall be canvassed and the result ascertained and determined by the board of county commissioners of said county and at all subsequent elections by the outgoing board of trustees. Such elections shall be conducted in all respects, as near as may be, as the elections of justices of the peace under the laws of this territory. Each member of the board of trustees shall qualify within ten days after his election by filing with the secretary-and-treasurer an oath subscribed by him to the effect that he will faithfully discharge the duties of his office, which oath shall be recorded in the minutes of the proceedings of the board.

Sec. 7. That the board of directors shall choose a president and a secretary-and-treasurer. The president shall be chosen from the members of the board, shall preside at all meetings of the board and act as the executive officer thereof. He shall

sign all warrants for the payment of money and all deeds and other instruments of writing requiring the corporate seal.

The secretary-and-treasurer shall give bond to the Territory of New Mexico in such sum as the board of trustees shall require, the same to be conditioned for the faithful performance of the duties of his office. It shall be his duty to keep a record of the proceedings of the board, which record shall be open to public inspection at all reasonable hours, to attest all warrants for the payment of money and all deeds and other instruments of writing requiring the signature of the president. He shall be the custodian of all funds, moneys, and papers belonging to the board of trustees. No compensation shall be voted at any time to any trustee or to any officer thereof, save the secretary-and-treasurer.

Sec. 8. That said board of trustees shall have the following powers:

First. To control and manage the land grant and prescribe rules and regulations for the administration thereof; to prohibit all trespasses and depredations upon the unallotted and unappropriated lands within the grant; to institute actions of ejectment to recover the possession of any such unallotted and unappropriated lands and any other action or suit that may be necessary and proper in the exercise of the powers herein conferred.

Second. To sell, convey, lease, mortgage or otherwise dispose of, under such rules and regulations as the board shall adopt for the purpose, the unallotted and unappropriated lands within the grant; but no such sale, conveyance or mortgaging of any such lands, or lease thereof for a longer period than five years, shall be made until such lands shall have first been appraised by at least two disinterested inhabitants of the grant, to be appointed by the judge of the district court for the county, nor for a sum less than two-thirds of the appraised value.

Third. To recognize and confirm by deed of conveyance all bona fide adverse holdings of real estate within the grant: *Provided, However,* That if any such board shall fail or refuse to make such conveyance upon demand the person aggrieved shall have the right to file a bill of complaint in the district court for the county, praying that such board may be compelled to confirm and convey to him and his heirs and assigns the lands described in the bill of complaint. If, upon the hearing of such cause, it shall appear that such person is entitled, under the laws, usages and customs of Spain, Mexico, the Territory of New Mexico or the United States, to such land, a decree shall be entered in such cause requiring such

board of trustees to confirm and convey to him, and his heirs and assigns, the lands aforesaid: *Provided, However,* That no part of the costs of such suit or proceeding shall be taxed to the board of trustees or paid by such board.

Any conveyance made in pursuance of the provisions of this act shall operate to conclude all persons claiming by, through or under the original title upon which the owners of such grant base their claim thereto the lands described in such conveyance. The words "owner" or "owners," wherever the same occur in this act, shall be construed to mean the members of the colony or community to which said grant was originally made, or their successors in interest, including all persons residing within the limits of the grant who shall have been in occupancy and adverse possession of any part or portion of such grant for a period of two years or more next preceding the passage of this act.

Fourth. To have a common seal.

Fifth. To adopt all necessary rules and regulations for the carrying out of the powers conferred in this act.

Sec. 9. That no sale, mortgage, lease or other disposition of the unallotted and unappropriated lands within the grant, authorized under the provisions of this act, nor any confirmation or conveyance, as provided in Section 8 of this Act, shall take effect or become operative until after the regular meeting of the board of trustees held next after the meeting at which the resolution authorizing such sale, mortgaging, leasing, confirmation, conveyance or other disposition of the lands involved is passed, and the corporation shall not be bound by any such resolution unless the same shall have been passed at a regular meeting of the board and by a majority vote of all members of the board.

Sec. 10. That the regular meetings of the board of trustees shall be held on the first Monday of each alternate month. Special meetings may be held at any time on the call of the president of the board. A majority of the board shall constitute a quorum for the transaction of business, save as hereinbefore provided. All vacancies in the board shall be filled by the remaining qualified members thereof, the persons appointed to fill such vacancies to hold their offices until the election and qualification of their successors. All expenses for holding elections under the provisions of this act, and all expenses necessary and proper incurred in the exercise of the powers herein conferred may be paid by the board of trustees out of the funds belonging to the corporation.

Sec. 11. All acts and parts of acts in conflict with this act

are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER 22.

AN ACT REGULATING THE SALARIES OF COUNTY COMMISSIONERS. *H. B. No. 128; Approved March 1, 1905.*

CONTENTS.

Sec. 1. Salary of county commissioners,

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever the revenue collected in any county during any current year for taxes shall in the aggregate equal or exceed one hundred thousand dollars, then the county commissioners shall be entitled to receive as compensation a salary of eight hundred dollars per annum payable in the manner now provided by law. Said compensation to be based on collection of taxes made during any preceding year; and whenever such collection of taxes for any preceding year shall be less than the sum herein specified, then the county commissioners shall receive the same compensation as provided by law in accordance with the classification of such counties by class.

Sec. 2. This act shall be in full force and effect on and after its passage.

CHAPTER 23.

AN ACT TO PROVIDE FOR THE COMPENSATION OF AN ENUMERATOR OF PERSONS OF SCHOOL AGE IN THE SEVERAL DISTRICTS OF THE TERRITORY OF NEW MEXICO. *H. B. No. 23; Approved March 2, 1905.*

CONTENTS.

Sec. 1. School directors to make enumeration of persons within school age. Duty of clerk. Compensation of clerk.

Sec. 2. Punishment for false enumeration.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the directors of schools in the several school districts in the territory shall, on or before the first day

of September of each year make an enumeration of all unmarried persons between five and twenty-one years of age, giving the names, ages and sexes of such persons in full, and shall report the same in writing, which enumeration list shall be signed by all the directors, to the county superintendent within fifteen days thereafter. It shall be the duty of the clerk of said school directors to correctly enumerate or cause to be enumerated all unmarried persons of the respective school districts as specified herein. For said enumeration he shall be paid from any funds in the hands of said directors the sum of one dollar and fifty cents for each one hundred names, or fraction thereof, thus enumerated.

Sec. 2. Any enumerator acting for the directors of schools of any district who shall wilfully place fictitious names, or names of persons, not actually residing in said district, upon the official enumeration list, shall be declared guilty of a misdemeanor and on conviction thereof, before any court of competent jurisdiction, he shall be punished by a fine of not less than ten or more than fifty dollars, which fine shall, when paid be placed in the school fund of said school district.

Sec. 3. All acts or parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force thirty days from and after its passage.

CHAPTER 24.

AN ACT PROVIDING FOR THE REGISTRATION OF TRADE-NAMES, TRADE-MARKS AND LABELS. *H. B. No. 33; Approved March 2. 1905.*

CONTENTS.

- Sec. 1. Application for registration of trade-names, trade-marks and labels to be filed in office of territorial secretary. Fee. Secretary to keep record of trade-names, trade-marks and labels. Evidentiary value of description of trade-name, trade-mark or label.
- Sec. 2. Articles to be stamped.
- Sec. 3. Unlawful to refill registered packages.
- Sec. 4. The unlawful use of registered trade-marks and trade-names.
- Sec. 5. Penalty for violation of sections 3 and 4.
- Sec. 6. To what extent provisions of act to be applicable.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any person or persons, firm, corporation or association who manufacture or deal in articles of a commercial

nature and wish to retain the exclusive right to the use of a trade-name, trade-mark or label shall make a description of the same in writing, accompanied by a *fac-simile* of such trade-name, trade-mark, or label, which description and application must set forth the class or classes of merchandise to be covered by such trade-name, trade-mark or label, together with a statement that the applicant claims by priority of adoption and employment of the same, exclusive right to the use thereof. Such instrument shall be signed by at least one of the persons or by the officials of the company, making application for registration, the whole duly acknowledged, and filed in the office of the secretary of the territory. For the filing of each application and issuing certificate thereof, the secretary shall collect a fee of \$5.00. The secretary shall keep a record of each trade-name, trade-mark, or label, and it shall be unlawful for any other person, firm, corporation or association to adopt a trade-name, trade-mark or label identical with or similar to one previously registered. A copy of such description of any trade-name, trade-mark or label, certified under the great seal of the Territory of New Mexico, shall be *prima facie* evidence of the facts therein stated.

Sec. 2. The proprietor of each trade-name, trade-mark or label shall cause the same to be plainly marked, printed, stamped or branded upon each article or original package covered by the same.

Sec. 3. It shall be unlawful for any person or persons, firm, corporation or association to use or refill any barrel, sack, package or bottle bearing any registered trade-name, trade-mark or label with any article for purposes of deceit.

Sec. 4. It shall be unlawful for any person or persons, firm, corporation or association to make, forge or counterfeit any trade-name, trade-mark or label previously registered in accordance with this act; have in his or their possession, except with written permission of the owner thereof, any die, stamp, stencil or model of such trade-name, trade-mark or label; vend or keep for sale any drugs, goods, wares or merchandise intended to represent the drugs, goods, wares or merchandise covered by such trade-name, trade-mark or label, or affix any general design identical with or similar to such trade-name, trade-mark or label when not the first to employ or use the same.

Sec. 5. Any person or persons, firm, corporation or association violating the provisions of Sections 3 or 4 of this act shall be deemed guilty of misdemeanor and shall be subject to a fine in a sum not less than \$50.00 nor more than \$200.00 for

each offense, at the discretion of the court, together with damages as they may appear.

Sec. 6. The provisions of this act, in so far as they may be applicable, are hereby extended to any person or persons, firm, corporation or association, who may have registered a trade-name, trade-mark or label in good faith prior to the passage of this act, and this act shall be in force and effect from and after its passage.

CHAPTER 25.

AN ACT FIXING THE TIME FOR HOLDING THE TERMS OF THE DISTRICT COURT FOR THE SIXTH JUDICIAL DISTRICT. S. H. B. No. 45; Approved March 2; 1905.

CONTENTS.

- Sec. 1. Term of court in sixth judicial district, Otero, Lincoln, Guadalupe and Quay counties.
- Sec. 2. All writs issued by district court, returnable at times and places designated in section 1.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The regular terms of the district court for the sixth judicial district of the Territory of New Mexico shall hereafter be commenced and held as follows:

In the County of Otero at the county seat of said county, commencing on the second Mondays in March and September each year.

In the County of Lincoln at the county seat of said county, commencing on the second Mondays in April and October each year.

In the County of Leonard Wood or Guadalupe as the case may be, at the county seat of said county, commencing on the second Mondays of May and November each year.

In the County of Quay at the county seat of said county, commencing on the first Mondays in June and December each year.

Sec. 2. Every writ, summons, recognizances, venire, subpoena, or other process whatever, which has been issued or taken out, or which may hereafter be issued or taken out from the district court of any county in said district, shall be returnable at the times and places designated in Section 1 of this act, and shall have the same force and effect as if the same had been made returnable at the time and place mentioned in said section.

Sec. 3. All acts and parts of acts in conflict herewith, are hereby repealed, and this act shall take effect and be in force from and after its passage.

CAPTER 26.

AN ACT ENTITLED AN ACT TO AMEND SUB-SECTION 134, OF SECTION 2685, OF THE COMPILED LAWS OF 1897. *C. B. No. 93; Approved March 2, 1905.*

CONTENTS.

Sec. 1. Sub-section 134, Section 2685, Compiled Laws of 1897, regarding notice of motion to set aside judgment, amended. Setting aside of default judgments.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That sub-section 134 of Section 2685 of the Compiled Laws of New Mexico, 1897, be and the same is hereby amended to read as follows:

Any judgment heretofore rendered or hereafter to be rendered in any court of this territory, out of term time, upon default, may be set aside by the judge upon motion filed within sixty days of the date of the entry of such judgment, upon good cause shown to the judge or court in which such judgment is rendered.

Sec. 2. This act shall be in full force and effect from and after its passage, and all acts or parts of acts in conflict herewith, are hereby repealed.

CHAPTER 27.

AN ACT TO AMEND SECTION 1, OF CHAPTER 95, OF THE SESSION LAWS OF 1901, AMENDING SECTION 8, OF CHAPTER 22, OF THE SESSION LAWS OF 1899, AMENDING SECTION 1757, OF THE COMPILED LAWS OF 1897; IN REGARD TO EXEMPTIONS FROM TAXATION. *H. B. No. 43; Approved March 3, 1905.*

CONTENTS.

Sec. 1. Section 1, Chapter 95, Laws of 1901, regarding exemptions from taxation, amended. Widows exempted.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1 of Chapter 95 of the Session Laws of 1901, whereby there was amended Section 8 of Chapter 22 of the Session Laws of 1899, which amended Section 1757 of the Compiled Laws of 1897, be and the same hereby is amended by adding thereto the following:

“Provided, Further, That all widows, whether having persons dependent on them or not, residents of this territory, shall be held and considered to be heads of families within the meaning of this act, and shall, in like manner that heads of families are so entitled to exemption be entitled to exemptions in conformity with the provisions of this act.”

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in force from and after its passage.

CHAPTER 28.

AN ACT FOR THE PROTECTION OF MINING PROPERTY. A. C. B., No. 47; Approved March 3, 1905.

CONTENTS.

Sec. 1. Owners of mining property to post notices.

Sec. 2. Unlawful after posting notices to enter upon premises. *Proviso.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Whenever the owner or lessee of any mining property in the Territory of New Mexico shall desire to operate the same and to prevent trespassers from entering thereon, such owner or lessees may post notices in English and Spanish in at least three public places upon said premises, warning all persons from entering upon said property without permission of the owner or lessee or his or their authorized agent or superintendent, which notices shall describe the boundaries of said property.

Sec. 2. After the posting of such notices, it shall be unlawful for any person to enter upon said premises without such permission, mentioned in Section 1 of this act, and any person violating the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished

by fine not exceeding fifty dollars or imprisonment in the county jail for a period not exceeding thirty days, or both such fine and imprisonment, in the discretion of the court: *Provided*, That this section shall not apply to any person or persons entering said premises in good faith for the purpose of ascertaining whether assessment work has been done, or for the purpose of making a location on government land.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in full force thirty days from and after its passage and approval.

CHAPTER 29.

AN ACT DEFINING THE CRIME OF ARSON AND PROVIDING A PENALTY THEREFOR, AND FOR OTHER PURPOSES. C. S. for C. B. No. 55; *Approved March 3, 1905,*

CONTENTS.

- Sec. 1. Burning of dwelling-house to constitute crime of arson.
- Sec. 2. Burning of any building of value of fifty dollars or over to constitute crime of arson.
- Sec. 3. Punishment.
- Sec. 4. Sections 1101, 1102 and 1108, Compiled Laws of 1897, regarding the crime of arson, repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any person who shall wilfully and maliciously burn any dwelling-house, the property of another, whereby the life of any person shall be destroyed, or shall wilfully and maliciously set fire to any building owned by himself or another, by the burning whereof any such dwelling-house shall be burned, whereby the life of any person shall be destroyed, shall suffer the same punishment as provided in the crime of murder in the first degree; and if the life of any person shall not have been destroyed, such person so offending shall be deemed guilty of the crime of arson, and upon conviction thereof he shall be punished by imprisonment in the county jail or territorial prison not less than two years nor more than twenty years. And if at the time of the committing of the offense aforesaid there was no person living in or occupying the dwelling-house so burned, he shall be punished by imprisonment in the territorial penitentiary not less than one year nor more than fifteen years.

Sec. 2. Any person who shall wilfully and maliciously burn or cause to be burned any building of the value of fifty dollars or over, or any goods, wares, merchandise or other chattels, of the value of fifty dollars or over, whether the same shall be at the same time the property of such person or not, and insured against loss or damage by fire, with intent to prejudice such insurer; every person so offending shall be deemed guilty of arson and shall be punished by imprisonment in the territorial penitentiary not less than one nor more than ten years.

Sec. 3. Any person who shall wilfully and maliciously and unlawfully attempt to burn or cause to be burned any of the property mentioned in the foregoing section, with intent to burn or destroy the same, or to prejudice any insurer, shall be imprisoned in the county jail not less than three months, or in the territorial penitentiary not less than one year nor more than three years, or by a fine of not more than one thousand dollars, or both in the discretion of the court.

Sec. 4. Sectins 1101 and 1102 and 1108 of the Compiled Laws of New Mexico of 1897, and all acts or parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in full force sixty days from and after its passage and approval.

CHAPTER 30.

AN ACT RELATING TO TEE FEES TO BE PAID FOR RECORDING BRANDS; TO FIX THE SALARY OF THE SECRETARY OF THE CATTLE SSNITARY BOARD, AND FOR OTHER PURPOSES.
C. B. No. 49; Approved March 3, 1605.

CONTENTS.

Sec. 1. Fees for recording brands.

Sec. 2. Compensation of secretary of cattle sanitary board.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The fees to be paid to the secretary of the cattle sanitary board for recording brands, and for furnishing certified copies thereof, shall remain as now fixed by law; but said fees when received by said secretary shall be transmitted the first of every month to the territorial treasurer, together with all inspection fees and other moneys received by said

secretary on the account of the cattle sanitary board, to be placed to the credit of the cattle indemnity fund.

Sec. 2. The secretary of said cattle sanitary board shall receive such compensation for his services as shall be fixed by said board not to exceed \$1,800.00 per annum.

Sec. 3. This act shall take effect and be in force from and after its passage.

CHAPTER 31.

AN ACT TO PROVIDE FOR THE PREVENTION AND ERADICATION OF MANGE OR SCABIES AMONG HORSES, MULES, ASSES AND CATTLE. *A. C. B. No. 29; Approved March 3, 1905.*

CONTENTS.

- Sec. 1. Cattle sanitary board to regulate the treatment of infectious diseases among live stock. *Provido.*
- Sec. 2. Board to create infected districts. Infected live stock to be dipped.
- Sec. 3. Duty of cattle sanitary board to seize and dip infected live stock.
- Sec. 4. Cattle sanitary board to employ inspectors. Compensation. Duties.
- Sec. 5. Inspectors of agricultural department may be appointed inspector by board.
- Sec. 6. Direction of dipping to be under agricultural department supervisor or member of board. Certificate of dipping. Dipping fee.
- Sec. 7. Lien on live stock account of dipping. Records to be kept in office of secretary of the board.
- Sec. 8. Penalty for violations of provisions of act.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. In addition to the powers now conferred upon it by law the cattle sanitary board of this territory shall have the power and it shall be its duty to determine the existence of, and employ the most efficient and practical means to prevent, suppress, control and eradicate the disease known as mange or scabies, or any contagious or infectious disease, among horses, mules, asses and cattle; and to direct and regulate the handling, dipping or treating of any of the aforesaid classes of live stock when infected with or exposed to the said disease; to make and adopt such quarantine and sanitary regulations to that end as may be by it deemed expedient: *Provided*, That all such regulations shall so far as practicable conform to the regulations in that regard of the department of agriculture of the United States, as they shall be from time to time promulgated; and to create and define districts within which such disease exists: *Provided, Further*, That in deter-

mining the district or districts within this territory in which such disease from time to time exists; said board shall co-operate with said department of agriculture.

A majority of said board shall constitute a quorum, and the said board may exercise any of the powers conferred upon it by this act through committees of its own members thereto specially empowered by resolution.

Sec. 2. Whenever the said board shall, from time to time, have determined that said disease exists in any such district or districts and created and defined the same, the same shall be known as an infected district or districts, and the board shall as soon as possible after creating such infected district, cause notice of the creation and of the limits thereof to be given by publication once a week for three successive weeks in some newspaper published within and of general circulation within said district, and if no newspaper be published therein, then in some newspaper published at a point nearest thereto; and thereupon it shall be the duty of all persons owning or having the control of any of the aforesaid classes of live stock within the boundaries of said district, to dip or treat said live stock within said district or so much of said live stock as the regulations of said board applicable to said district may require; the dipping of all such live stock to be in strict compliance with the regulations of said board, and within such reasonable time after the completion of the publication of the notice of the creation of said district, as said board may prescribe. The said board shall, before publishing said notice, as to any created district; prescribe the dipping regulations applicable thereto; and shall publish said regulations with said notice.

Sec. 3. It shall be the duty of the said cattle sanitary board, promptly upon the expiration of 40 days after the completion of the publication of the notice of the creation of any such infected district, to cause to be seized and gathered and dipped and treated any undipped or untreated live stock of the class named within said district: *Provided, However,* That no obligation shall exist or be created by or against said board on account of the dipping or treating of any live stock by it, but such expenses shall be a charge and shall be paid by said board out of any sums realized out of the lien of liability by this act created.

Sec. 4. To aid in the enforcement of the provisions of this act it shall be the duty of the board, and they are hereby authorized to employ for that service, and to be known as inspector, as many competent and discreet persons from time to time

as emergencies may arise, as in their judgment they may deem necessary for the purpose, and shall fix their compensation which shall not exceed two dollars and fifty cents per day each, while in actual service, and in their actual and necessary expenses while in performance of their duties, as may be agreed upon. And also to direct them as to their duties and as to where, when and how to perform them. Such persons to make full reports to said board in writing, of all their acts and doings, under said instructions. And in the performance of their duties, whenever necessary, they may enter upon and examine any car, yard, stable, corral, or any building or premises to examine any said live stock therein or thereon, and otherwise do whatever may be necessary and proper therein or thereon to the effectual discharge of their said powers and duties.

Sec. 5. Subject to the approval of the department of agriculture of the United States, the inspectors appointed by it, may also be appointed by the said board, for the services set forth in Section 4 of this act, and they shall hold said appointment at the pleasure of said board so long as they remain inspectors of said department and as such are stationed in this territory and they shall act as such inspectors without bond or compensation from the territory and shall possess all the powers and duties of territorial inspector as needed for the purpose of this act.

Sec. 6. All dipping shall be under the supervision of the department of agriculture through its regular inspectors, or a duly authorized member of this board, and every person within the district who shall own or control any of said live stock required to be dipped or treated therein, shall as soon as the same shall have been dipped or treated in conformity with the regulations of said board, be entitled to receive and shall receive from the said board a certificate in writing to that effect. The said board is hereby empowered and required by regulation to impose and collect a dipping inspection fee to cover the estimated cost of dipping or treating supervision incurred under its regulations.

Sev. 7. For all sums paid out by the said board pursuant to the provisions of this section and in addition thereto such further sum per head of live stock dipped or treated as in this act provided as may be fixed by the said board by regulations as a penalty, and for all amounts due on account of dipping or treating supervision, it shall have a lien upon all such live stock so dipped or treated and any other live stock of the person owning the same, which lien shall be a first lien and superior to any other lien, claim or demand against said live stock, which said lien the said board shall have power to en-

force by appropriate action and it may further maintain an action to recover from the owner of such live stock the amount of said lien.

The board shall cause to be kept in the office of the secretary thereof a record of all sums due to it on account of payments made or expenditures incurred on account of the dipping of any such live stock, or on account of dipping or treating supervision, together with the brand of all live stock affected by the lien aforesaid, and the name of the owner thereof, if known, which record shall be deemed to impart notice of such lien.

Sec. 8. Any owner or person having control of any of said live stock or any other person whether an officer or employe of said board or a private person who shall wilfully violate any provisions of this act or regulations or orders lawfully made in conformity therewith, or who shall in any manner hinder or obstruct the execution of any such regulation or order, or hinder, resist, or obstruct any officer or employe of said board or the territorial veterinarian or any inspector in the discharge of his duty or in the exercise of his lawful powers or who shall wilfully or negligently break any quarantine or wilfully or negligently suffer any quarantined animal or animals to escape from any quarantine shall be deemed guilty of a misdemeanor.

Sec. 9. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 10. This act shall be in effect from and after its passage.

CHAPTER 32.

AN ACT TO PROHIBIT THE GIVING OF AND PARTICIPATING IN CATTLE ROPING EXHIBITIONS. *C. B. No. 23; Approved March 3, 1905.*

CONTENTS.

Sec. 1. Cattle roping exhibitions prohibited.

Sec. 2. Penalty.

Sec. 3. Jurisdiction of justices of peace.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. It shall be unlawful for any association, person or persons to give or participate in any cattle roping exhibition in this territory.

Sec. 2. Any association or persons who shall give any public exhibition of cattle roping, or who shall in any way be interested in, or participate in the giving of any such exhibitions as manager, ropers, or in any other manner, shall be deemed guilty of misdemeanor; and upon conviction shall be fined in the sum not exceeding five hundred (\$500.00) dollars, or imprisonment in the county jail not exceeding sixty days, or both such fine and imprisonment in the discretion of the court.

Sec. 3. Justices of the peace in their respective precincts shall have concurrent jurisdiction with the district courts to hear and determine all cases arising under the provisions of this act.

CHAPTER 33.

AN ACT ARRANGING AND MORE SPECIFICALLY DESIGNATING THE DISTRICTS OF THE TERRITORY FOR DISTRICT ATTORNEY PURPOSES, AND FOR OTHER PURPOSES. *C. S. for A. C. B. No. 48; Approved March 6, 1905.*

CONTENTS.

- Sec. 1. Arrangement of districts for district attorney purposes.
Sec. 2. Appointment of district attorney. Qualifications. Term.
Sec. 3. Salary and fees. Duties.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The districts of this territory for district attorney purposes are hereby arranged as follows, to wit:

The first district shall remain as now established except that the Counties of Santa Fe and Taos are hereby eliminated therefrom leaving only the Counties of San Juan and Rio Arriba therein;

The Counties of Colfax and Union shall constitute the third district attorney district as now provided by law;

The second district shall remain as now established by law except that the Counties of Quay and Guadalupe are hereby eliminated therefrom leaving only the Counties of Mora and San Miguel therein;

The Counties of Quay and Guadalupe shall constitute the fourth district attorney district;

The Counties of Santa Fe and Taos shall constitute the fifth district attorney district;

The Counties of Bernalillo, Valencia, McKinley, Sandoval and Torrance shall constitute the sixth district attorney district;

The Counties of Socorro and Sierra shall constitute the seventh district attorney district;

The Counties of Dona Ana, Lincoln and Otero, shall constitute the eighth district attorney district;

The Counties of Chaves, Eddy and Roosevelt, shall constitute the ninth district attorney district;

The County of Luna shall constitute the tenth district attorney district;

The County of Grant shall constitute the eleventh district attorney district,

Sec. 2. In all such districts where no provision is already made by law, the district attorney learned in the law shall by and with the advice and consent of the legislative council be appointed by the governor. All district attorneys shall at the time of their appointments have been a resident one year next preceding his appointment in the Territory of New Mexico, and engaged in the practice of law therein as a member of the bar thereof, and they each shall hold their office for a period of two years from the date of such appointment and until his successor may be duly appointed and qualified.

Sec. 3. The district attorneys of this territory shall respectively be the attorneys for the counties situated in their respective districts, and shall each receive from the Territory of New Mexico, a salary of five hundred dollars per annum, and the fees and emoluments now provided by law and also from the several counties in their respective districts the following amounts per annum:

Rio Arriba	\$300.00	Valencia	\$200.00
Colfax	400.00	McKinley	200.00
San Juan	200.00	Sandoval	200.00
Union	300.00	Socorro	500.00
San Miguel	600.00	Sierra	300.00
Mora	300.00	Dona Ana	500.00
Quay	200.00	Lincoln	300.00
Guadalupe	250.00	Otero	300.00
Santa Fe	400.00	Chaves	600.00
Taos	250.00	Eddy	400.00
Torrance	200.00	Roosevelt	200.00
Bernalillo	600.00	Luna	300.00
Grant	300.00		

The duties, obligations and responsibilities of all of said district attorneys and their method of qualification shall be the same as now provided by law for district attorneys.

Sec. 4. All laws and parts of laws in conflict with this act, are hereby repealed, and this act shall be in force from and after its passage.

CHAPTER 34.

AN ACT PROVIDING FOR ASSISTANT DISTRICT ATTORNEYS. *A.* *C. B. No. 96; Approved March 6, 1905.*

CONTENTS.

Sec. 1. Appointment of assistant district attorney. Qualifications. Oath. Duties.

Sec. 2. Compensation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter each district attorney in this territory may appoint a suitable person who must be an attorney at law practicing his profession in this territory and a member of the bar of this territory, and a citizen and resident of the district wherein such district attorney resides, to be his assistant. Every appointment of an assistant district attorney shall be in writing under the hand of the district attorney and filed in the office of the clerk of the district court of the judicial district wherein the district attorney resides, and the person so appointed shall take and file in the office of the clerk of the district court of the judicial district wherein the district attorney resides, and the person so appointed shall take and file with said clerk such an oath of office as is now prescribed by law for district attorneys before entering upon his duties as such assistant district attorney. Every such appointment may be revoked by the district attorney making the same, which revocation shall be in writing and filed in said clerk's office. Such assistant district attorney may attend the meetings of the boards of county commissioners, the district court, justice and probate courts in such district attorney's district, and therein discharge any duties imposed by law upon or required of the district attorney by whom he was appointed.

Sec. 2. Such assistant district attorney shall receive no compensation, except such as may be paid him by the district

attorney making such appointment; but the boards of county commissioners may pay such assistant district attorney for any special services rendered said board in such district attorney's district in any sum not to exceed one hundred dollars per annum.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in full force and effect from and after its passage and approval.

CHAPTER 35.

AN ACT TO AMEND AN ACT FOR THE PROTECTION OF PROPERTY FROM THE WATERS OF THE RIO GRANDE, A. C. B. NO. 59, APPROVED FEBRUARY 22, 1905. H. B. No. 168; Approved March 8, 1905.

CONTENTS.

Sec. 1. Section 1, Chapter 18, Laws of 1905, regarding the election of river commissioners in certain counties, amended. Sandoval county included.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 1 of an Act for the protection of property from the waters of the Rio Grande, approved February 22, 1905, be and the same is hereby amended by striking out the word "and" between the words "Socorro and Dona Ana" and by inserting in lieu thereof a comma, and by adding after the words "Dona Ana" the words "and Sandoval."

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER 36.

AN ACT TO AMEND CHAPTER 29, OF THE SESSION LAWS OF 1901, OF NEW MEXICO, APPROVED MARCH 16, 1901. H. B. No. 144; Approved March 8, 1905.

CONTENTS.

Sec. 1. Section 1, Chapter 29, Laws of 1901, regarding the rights of Indians in and to acequias, amended. Indians required to render services in working acequias. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1 of Chapter 29 of the Session Laws of New Mexico of 1901, be and the same hereby is amended to read as follows: "That Section 1876 of the Compiled Laws of 1897 be and the same is hereby amended so as to read as follows: "Section 1876. The different communities of Indians residing within the Territory of New Mexico shall be subject to render their services in working the acequias, within the limits of their respective reservations in which they may have a common interest with the citizens who live within their respective reservations, and they shall enjoy at the same time the same benefit and rights of commercial traffic; *Provided*, That hereafter said Indians shall have no right to participate in the nominations and election of acequia overseers or acequia or water commissioners in any ditch, whether within or without their reservations, except in acequias constructed entirely by themselves, unless they have paid their proportionate share of the whole cost of the construction of such acequia; and unless the lands sought to be voted by said Indians have been duly returned for taxation in accordance with law, and territorial and county taxes paid thereon. In all cases in which citizens living within the limits of such communities or pueblos of Indians shall have acquired water rights by purchase of land from said Indians, the distribution of such water between the Indians and the said citizens shall be agreed upon, based upon the customs heretofore practiced and recognized between the said Indians and said citizens, by and between the governor of the community or pueblo and the commissioners of such acequia in which the said citizens may have acquired any such rights, and the governors of such communities or pueblos of Indians and the said river or acequia commissioners, shall also regulate the amount and manner of work to be done by the Indians and citizens in all such acequias in which all have water rights, in accordance with such customs."

Sec. 2. All laws or parts of laws in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 37.

AN ACT FOR THE PROTECTION OF PERSONS HIRING LABOR IN ADVANCE. *H. B. No. 111; Approved March 8, 1905.*

CONTENTS.

Sec. 1. Penalty for failure to work after receiving advances in money or goods.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any person or persons, who under the pretense of hiring to do work for any other person or persons who shall obtain in advance and on account of promise of work to be done by such person or persons, any goods or money, and afterwards being able so to do wilfully, fails to perform the work agreed by such person or persons to be performed; be punished before any justice of the peace by a fine of not less than fifty dollars, and no more than one hundred dollars, or by imprisonment in the county jail for not less than three months nor more than six months or both: *Provided, However,* If before, or at the time said labor was to be done or performed said person or persons shall refund said money or pay for any goods so obtained and interest on the same, this law shall not apply.

Sec. 2. That all laws or parts of laws in conflict herewith, are hereby repealed, and this act shall take effect thirty days after its passage.

CHAPTER 38.

AN ACT TO PREVENT THE SALE OF ANIMALS ON SHARES, WITHOUT THE CONSENT OF THE OWNER, AND FOR OTHER PURPOSES. *H. B. No. 107; Approved March 8, 1905.*

CONTENTS.

Sec. 1. Penalty for sale of animals on shares, without the consent of the owner.

Sec. 2. Penalty for buying or receiving animals without the consent of the owner.

Sec. 3. Evidentiary value of recorded contracts.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter it any person having in his possession, or under his control on shares, or under contract any

horses, cattle or sheep, and shall contract, sell or otherwise dispose of the same, or any part thereof to another, without the consent of such owner, the person so offending shall be deemed guilty of a felony, and on indictment and conviction shall be imprisoned in the penitentiary not less than six months or more than three years, or shall be fined not less than \$50.00 nor more than \$500.00, or shall suffer both fine and imprisonment, in the discretion of the court trying the case.

Sec. 2. Any person who shall knowingly buy of, take or receive from any person having in his possession, or under his control, any horses, cattle, or sheep on shares, or under contract, without the consent of the owner of such animals, shall be deemed guilty of a felony, and shall on indictment and conviction be punished as provided for in Section 1 of this act.

Sec. 3. Any contract, now of record in the office of the probate clerk and ex-officio recorder, or any contract which may hereafter be recorded in said office for animals on shares, or other contracts regarding the possession, or control of any animals in the county, in which any such animals may be bought, contracted for, or received, shall be considered a notice and knowledge of all persons of the ownership of such animals, and on trial of any one for the violation of this act, or any part thereof such recorded contract, or a certified copy thereof, shall be sufficient evidence to prove the notice and knowledge of ownership aforesaid.

Sec. 4. This act shall take effect and be in force thirty days after its passage.

CHAPTER 39.

AN ACT TO AMEND AN ACT OF THE 36TH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, ENTITLED "AN ACT TO ESTABLISH AN INSURANCE DEPARTMENT IN THE TERRITORY OF NEW MEXICO AND TO REGULATE INSURANCE COMPANIES DOING BUSINESS THEREIN" BEING HOUSE BILL NO. 73 APPROVED FEBRUARY 9, 1905. H. B. No. 150; *Approved March 8, 1905.*

CONTENTS.

- Sec. 1. Section 18, Chapter 5, Laws of 1905, fixing the time of rendering reports to superintendent of insurance, amended. Time changed from February to March.

- Sec. 2. Section 25, Chapter 5, Laws of 1905, regarding the exemptions of fraternal, religious, and benevolent associations, amended.
- Sec. 3. Section 31, Chapter 5, Laws of 1905, regarding the applicability of act to contracts and policies already in force, amended. Premiums hereafter collected, subject to the 2 per cent. tax provided in Section 11, Chapter 5, Laws of 1905.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 18 of an act entitled "An Act to establish an insurance department in the Territory of New Mexico and to regulate insurance companies doing business therein," being House Bill No. 73, of the Legislative Assembly of the Territory of New Mexico, approved February 9, 1905, be and it is hereby amended by striking out the word "February" in the second line thereof and inserting in lieu thereof the word "March."

Sec. 2. That Section 25 of said Act be and it is hereby amended by striking out the word "not" in the second line thereof.

Sec. 3. That Section 31 of said Act be and it is hereby amended so as to read as follows: "Nothing in this Act contained shall affect the validity of policies of insurance companies issued and in force prior to the passage of this act, or the payment or collection of premiums thereon except that all premiums hereafter collected or received on policies theretofore written shall be subject to the two per cent. tax provided in Section 11 of this Act to the same extent as premiums on policies hereafter written."

Sec. 4. This act shall be in full force and effect from and after its passage.

CHAPTER 40.

AN ACT RELATING TO REGISTRATION BOARDS. *H. B. No 22;*
Approved March 8, 1905.

CONTENTS.

- Sec. 1. Section 1711, Chapter 2, Compiled Laws of 1897, fixing the compensation of registration boards, amended. Compensation of registration boards in precincts casting over one hundred votes.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1711 of Chapter 2, under title of election, of the Compiled Laws of 1897 of the Territory of New Mexico, be amended, that said Section 1711 shall read as follows:

"In such precincts wherein the vote in the last previous general election did not exceed one hundred votes, each member of the board of registration of such precinct, shall be entitled to a recompense of three dollars for the service in said registration. In such precincts where in the votes cast in the last previous general election exceed the number of one hundred votes each member of the board of registration in such precincts shall be entitled to a recompense of five dollars for the services rendered in said registration."

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in force from and after its passage.

CHAPTER 41.

AN ACT TO AMEND SECTION 1, OF CHAPTER 16, OF THE SESSION LAWS OF 1897. *H. B. No. 104, Approved March 8, 1905*

CONTENTS.

Sec. 1. Section 1, Chapter 16, Laws of 1897, relating to the tampering with locomotive attachments, amended. Proviso, abettor considered principal.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1 of Chapter 16 of the Session Laws of 1897, be and the same hereby is amended so as to read as follows:

"Section 1. That any person or persons who shall unlawfully and without authority remove, take, steal, change, add to, take from, or in any manner interfere with any journal bearings or brasses or any of the parts or attachments of any locomotive, tender or car, or any fixture or attachment, belonging thereto, connected with and used in operating any locomotive, tender or car, owned, leased or used by any railroad, railway or transportation company in this territory, shall be deemed guilty of a felony and upon conviction thereof before any court or competent tribunal, shall be subject to imprisonment in the territorial penitentiary for not less than one year nor more than five years: *Provided*, That if the malicious and unlawful removal of any such journal bearings or brasses, fixtures or attachments, or the unlawful and malicious change thereof or interference there with, shall be the cause of wrecking or derailing any locomotive, car or cars, shall result in injuring or death of any employe, passenger or other person, such per-

son or persons guilty of removal, change, alteration, or interference with such journal bearings, or brasses, or other parts of attachments of any such locomotive, tender or car, or any fixture or attachment belonging thereto, connected with or used in operating such locomotive, tender or car, shall be deemed guilty of an assault with intent to commit murder, or guilty of murder as the case may be, and upon conviction thereof shall be punished as in other cases of assault with intent to commit murder and murder. And any and all persons who shall combine, conspire or contrive to perpetrate, or shall counsel, aid or assist in the perpetration of any of the offenses set forth in this section, on conviction thereof shall be deemed to be principals and punished as in this section provided."

Sec. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 42.

AN ACT RELATING TO THE SHEEP SANITARY BOARD. *H. B. No. 110; Approved March 8, 1905.*

CONTENTS.

- Sec. 1. Trailing across county lines sheep with scabies, prohibited. Exception.
- Sec. 2. Trailing sheep out of Indian reservations without bill of health, prohibited.
- Sec. 3. Duty of owner of infected sheep to report to secretary of sheep sanitary board.
- Sec. 4. Sheep sanitary board to be notified of location of public buck herd.
- Sec. 5. Duty of sheep owners to obey orders of sheep sanitary board.
- Sec. 6. Penalty for violation of sections 1, 2, 3, 4, or 5, of this act.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. No person, firm or corporation shall trail or cause to be trailed across any county line in the Territory of New Mexico any sheep that are offered with scabies except by a permit signed by an inspector, secretary or member of the territorial sheep sanitary board.

Sec. 2. No person, firm or corporation shall trail or cause to be trailed any sheep out of, or from any Indian reservation within or bordering in New Mexico without first having obtained a bill of health from an inspector of the sheep sanitary board or an inspector of the bureau of animal industry of the United States.

Sec. 3. It shall be the duty of any person, firm or corporation owning or having under its control any sheep which have

become infected with scabies or any other contagious or infectious disease to forthwith report such fact in writing to the secretary of the territorial sheep sanitary board.

Sec. 4. It shall be the duty of any person in charge of, or having the custody or control of any public buck herd to notify the secretary of the sheep sanitary board during the first week of September and October of each year giving the location of said herd.

Sec. 5. It is hereby made the duty of any person, firm, or corporation owning or having charge or control of any sheep to carry out and perform any order of the territorial sheep sanitary board of which he or it has had notice either orally or in writing from any member, inspector or the secretary of the board, or of which he or it has knowledge.

Sec. 6. Any person, firm, or corporation violating the provisions of Sections 1, 2, 3, 4, or 5 of this Act shall be subject to a penalty not exceeding five hundred dollars, which shall be a lien on the sheep of such person, firm or corporation, and the board shall notify such person, firm or corporation as to the amount of penalty to which he, they or it are subject and demand the payment thereof, and if the same be not paid within ten days after demand is made therefor, the board may begin suit in any court of competent jurisdiction, which shall include the district court of the county where the office of the board may be for the collection of a penalty for such violation, and the court may give judgment for any amount not exceeding five hundred dollars and for costs and expenses, and the amount so recovered shall be paid into the sheep sanitary fund; but these provisions shall not be held to interfere with or repeal any other statutory remedies or proceedings looking to the suppression of contagious disease among sheep.

Sec. 7. This act shall be in force from and after its passage.

CAPTER 43.

AN ACT RELATING TO FOUL BROOD AND OTHER CONTAGIOUS DISEASES AMONG BEES. *H. B. No. 158; Approved March 9, 1905.*

CONTENTS.

- Sec. 1. Duty of bee keepers to protect and disinfect bees and bee-hives.
- Sec. 2. Penalty for allowing bees and bee-hives to become infected.
- Sec. 3. Complaint to be made before justice of the peace, of existence of foul brood or contagious diseases.

Sec. 4. Bees and bee-hives infected with foul brood or other contagious diseases, to be destroyed as a nuisance.

Sec. 5. Jurisdiction of justices of the peace.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter all bee-keepers, owners and possessors of bees, apiaries, bee-hives and apparatus pertaining to bees, bee-keepers, apiaries and bee-hives shall keep the same properly protected and disinfected and free from all foul, brood or other contagious diseases and shall be required to keep all bees, bee-hives, bee-houses, apiaries, combs, honey and apparatus free from all foul, brood or other contagious diseases.

Sec. 2. That any person or persons who have in their possession or under their control any bees, bee-hives, bee-houses, combs or apparatus pertaining to bees or apiaries and who shall allow the same to become infected or diseased with any foul brood or contagious diseases, and who shall wilfully and knowingly permit them to remain in such condition shall be deemed guilty of misdemeanor and upon trial and conviction before any justice of the peace may be fined in any sum not less than ten dollars or more than fifty dollars or by imprisonment in the county jail not more than 30 days or by both such fine and imprisonment.

Sec. 3. That any person competent to testify as a witness may upon information and belief make complaint before any justice of the peace in any county in this territory in which such foul brood or contagious disease among bees is found to exist and upon such written complaint being made in writing and duly sworn to as required by law the justice before whom such complaint is made shall issue a warrant for the arrest of the offender and shall fully inquire, examine into and try said cause as now provided for the trial of misdemeanors before a justice of the peace.

Sec. 4. That upon the trial of said cause that any bees, bee-hives, combs, honey or apparatus connected with said apiary or bee-keeper, that be found by said justice of the peace before whom such trial is had, to be diseased or infected with foul brood or any other contagious diseases, shall by such justice of the peace be declared to be a nuisance and shall be condemned as such and an order or writ issued for the destruction of such nuisance, and upon the issuing of such order and such writ directed to any constable or sheriff of such county such constable or such sheriff to whom such order or writ is directed and delivered shall forthwith execute the same by burning, destroying and putting out of existence all such

bees, bee-hives, bee-houses, comb, honey or apparatus so declared to be and condemned as a nuisance.

Sec. 5.—Justices of the peace in their respective counties shall have jurisdiction in all causes arising under the provisions of this act, and their costs in cases under this act shall be taxed up and assessed as cases in other cases of misdemeanor before justice of the peace.

Sec. 6. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in force from and after its passage.

CHAPTER 44.

AN ACT TO AMEND AN ACT ENTITLED, "AN ACT TO PROVIDE MEANS FOR CONSTRUCTING AND MAINTAINING DYKES AND SUCH DAMS, EMBANKMENTS AND DITCHES AND OTHER STRUCTURES AS MAY BE NECESSARY TO PROTECT LIVES AND PROPERTY AGAINST FLOODS AND TO AUTHORIZE THE LEVY OF A TAX THEREFOR" APPROVED FEBRUARY 22, 1905. H. B. No. 161; Approved March 9, 1905.

CONTENTS.

- Sec. 1. Chapter 19, Laws of 1905, providing for the construction and maintenance of dykes and dams, amended.
- Sec. 2. County commissioners of county of first class, to borrow money for use during year 1905. Rate of interest. Indebtedness a prior lien upon taxes.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the act entitled, "An Act to provide means for constructing and maintaining dykes and such dams, embankments and ditches and other structures as may be necessary to protect lives and property against floods and to authorize the levy of a tax therefore," approved February 22, 1905, be amended by adding thereto the following section:

Sec. 2. That the county commissioners of any county of the first class authorized to levy a tax under the provisions of this act shall be and are hereby authorized to borrow money for use during the year 1905, upon the faith of the taxes to be levied and collected during said year, said money to be expended in the same manner as the tax levy authorized by

this act is authorized to be expended; and no rate of interest shall be paid upon the moneys so borrowed in excess of ten per cent. per annum, and when the said taxes are collected, the indebtedness so incurred shall be a prior lien upon the said taxes.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in force and take effect from and after its passage.

CHAPTER 45.

AN ACT TO AMEND SECTIONS 5 AND 6 OF CHAPTER 60, OF THE SESSION LAWS OF 1903, RELATING TO THE PRACTICE OF DENTISTRY WITHIN THE TERRITORY OF NEW MEXICO.
H. B. No. 155; Approved March 9 1905.

CONTENTS.

- Sec. 1. Section 5, Chapter 60, Laws of 1893, relating to the practice of dentistry, amended. College diploma or affidavit to be presented by applicant.
- Sec. 2. Section 6, Chapter 60, Laws of 1893, regarding fees required of applicants to practice dentistry, amended. Annual fee required of licensed dentists.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 5 of Chapter 60 of the Session Laws of 1893, be, and the same is hereby amended by striking out all words thereof after and including the word "*Provided*" and inserting in lieu thereof the following:

"And such person shall present at the time of his examination either his diploma from a reputable dental college, or the affidavit of three reputable dentist within the territory, of three years standing, certifying that such applicant is qualified to take such examination."

Sec. 2. That Section 6 of Chapter 60 of the Session Laws of 1903, be, and the same is hereby amended by adding thereto the following:

"All licensed dentists within the Territory shall, on or before the first day of June of each year, register with the secretary of the board, and shall pay therefor an annual fee of three dollars. Said board shall have power to revoke the license of all dentists failing to register within thirty days after written notice so to do."

Sec. 3. This act shall be in force from and after its passage.

CAPTER 46.

AN ACT PROVIDING FOR THE MANAGEMENT, CONTROL AND GOVERNMENT OF THE LAND GRANT KNOWN AS THE GRANT OF CEBILLETA DE LA JOYA IN THE COUNTY OF SOCORRO.
H. B. No. 145; Approved March 9, 1905.

CONTENTS.

- Sec. 1. Chapter 71, Laws of 1874, relating to the Cebilleta de la Joya Grant, repealed.
- Sec. 2. Personnel of board of trustees, for management of the Cebilleta de la Joya Grant. Bond required of trustees. Election. Term. Qualifications. List of voters to be furnished by trustees.
- Sec. 3. Necessary expenses of trustees, while performing duties, to be paid.
- Sec. 4. Organization. Duties of president, secretary and treasurer of board.
- Sec. 5. Rules and regulations not to conflict with laws of territory or of United States. Power of board to rent, lease and mortgage lands.
- Sec. 6. List of all owners of undivided interests in grant, to be made.
- Sec. 7. Power of board to levy assessment to pay expenses of the administration of property. Treasurer of board to collect and receive the assessments. Exemption of property taxed for county and territorial purposes.
- Sec. 8. Litigation by or against the board. Scope of litigation which may be instituted by board.
- Sec. 9. Limitation of power of board to sell portion of grant.
- Sec. 10. Meetings of board. Employment of attorney. Board to provide office supplies.
- Sec. 11. Board of trustees not a body corporate.
- Sec. 12. Joint owners or co-owners in grant permitted to dispose of their interests.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. An Act entitled "An Act special for the grant of Cebilleta de la Joya in the county of Socorro," approved January 8, 1874, and contained in Chapter 71 of the laws enacted by the 21st Session of the Legislative Assembly of the Territory of New Mexico, be and the same is hereby repealed.

Sec. 2. Sylvestre Esquibel, Abram Barela and Jesus Baca y Peralta of La Joya; Leopoldo Contreras and Albino Contreras y Tafoya of Ranchos of La Joya; Alej Gurule and Eduardo Chaves of San Acacio all in the County of Socorro, New Mexico, are hereby appointed a board of trustees to take charge of, manage, control and govern the grant and tract of land known as the Grant of Cebilleta de la Joya, situate in the County of Socorro, Territory of New Mexico, for the term of two years from and after the first day of May, A. D., 1905, and until their successors shall be elected and enter upon the duties of their office. Each of said trustees here designated

and their successors hereafter elected shall enter into a good and sufficient bond in the sum of three hundred dollars to be approved by the board of said trustees, payable to said board of trustees conditioned for the faithful performance by him of his duties as such trustee, which said bond shall be kept by the treasurer of said board and shall be recorded in the minutes of the proceedings of said board after the same shall be approved thereby. Said board of trustees are designated and each board of trustees hereafter elected on the last Monday in April before the expiration of their term of two years in office hold an election for the successors in office, who shall be elected to hold their office for two years from and after the first day of May immediately following said election; said board of trustees to consist of seven members, but a majority thereof only shall be necessary to transact any business provided to be performed by this act; all of the members to hold their office for two years from and after the first day of May immediately following said election; said board of trustees to consist of seven members, but a majority thereof only shall be necessary to transact any business provided to be performed by this act; all of the members of said board of trustees must be owners of individual interests in said grant and tract of land, obtained by them through mesne conveyances or by inheritance from or through the original grantees, their heirs and assigns, and they shall be residents on said tract of land at the time of their election and during their term of office and must be tax-payers in said County of Socorro. Only those persons who own and possess undivided interests in the lands of the said grant through mesne conveyances or by inheritance from or through the original grantees, their heirs or assigns, shall be qualified voters at such election for said trustees; the vote of no other person shall be received or counted by said trustees at said election. At least thirty days before any such election said trustees shall cause a correct list, as far as possible, to be made of all persons entitled to vote for trustees as above provided which said list shall be used by the said trustees in holding said election and in determining the qualifications of voters thereat: *Provided*, That any person who actually possesses the necessary qualifications as a voter for such trustees at any such election, whose name may not have been placed in said list, shall be entitled to vote at said election, if he shall make affidavit before some person authorized to administer an oath, showing his due qualification as such voter and the same shall be corroborated by the affidavits of two other persons who may be qualified voters at such election;

said affidavits to be in writing, signed by the parties making the same, and delivered to the said board of trustees at said election.

Sec. 3. The members of the boards of trustees, provided for in the preceding section, shall serve and perform their duties as such without any compensation therefor, except when they or any of them shall be obliged to make journeys from or to different points in order to perform or attend to their duties or the business pertaining to the said tract of land, there shall be paid to such of said trustees their actual transportation and subsistence while making such journey and performing said duty.

Sec. 4. Each board shall organize by electing one of its members president thereof and another of its members secretary and treasurer thereof at the first meeting of said board in May, after their appointment or election, or as soon thereafter as they may hold such meeting. The president so elected shall preside at all meetings of the said board when present and in session; in case of his absence, the members present, if a quorum, may select a temporary chairman to preside at any meeting in his stead. The president shall also be the executive officer of said board. The secretary shall keep a correct record of all the proceedings, acts and doings of said board in proper books to be supplied by the board; shall record all resolutions and documents determining any question as provided for by said board and shall safely keep all books, documents and papers belonging to or pertaining to the affairs and business of said board coming into his possession, or that of the said board in reference to the affairs of said grant and tract of land under the provisions of this act; and all books, documents, papers and instruments of any kind whatever which pertain to the affairs of said grant and tract of land and which have accumulated, been, had or kept by the commission which heretofore existed under the said act which is repealed by the first section of this act, are hereby authorized, directed and required to be turned over and delivered to the secretary of the board of trustees herein provided for, who shall keep them as a part of the records and files and documents belonging to and under the control of said board of trustees hereby established. Said board of trustees at their first meeting or as soon thereafter as may be practicable shall adopt rules and regulations for the government of the said board and the management and control of the affairs of said grant and tract of land hereby entrusted to them and which said board shall have the supervision and control of all unsegregated and undivided portions of said grant and tract of land and also of the records, books,

papers and documents which are hereby required to be kept and preserved by the secretary of said board, which secretary shall in all his acts and doings be subject to and under the direction and control of said board and perform such duties as the said board may prescribe for him to perform, either by general regulation or under special regulation. The treasurer of said board shall enter into a bond with two or more good and sufficient sureties, in such sum as may be prescribed by said board of trustees, payable to the said board and to be approved of by the said board, conditioned for the faithful performance of his duty as such treasurer according to law, and it shall be his duty to receive all moneys, obligations, documents, papers and records belonging to the affairs of said board of trustees and of said land, and he shall keep correct accounts of them in books to be provided for that purpose by the board and render statements thereof when required by the board and not so required, at each regular meetings thereof, showing the amounts of moneys received and the amounts disbursed and for what purpose; said treasurer shall perform such other duties as may be prescribed by or required of him by the said board of trustees, and shall be subject to its management, direction and control.

Sec. 5. The rules and regulations established by said board of trustees for the management, control and government of said grant and tract of land and the officers thereof, must not in any manner conflict with the laws of this territory or of the United States, or the constitution thereof, and said rules and regulations thereof, subject to such restriction, may be made with reference to trespassers, and damages done by animals which may be found within the limits of said grant, without permission or authority from said board of trustees, or the authorized agents thereof, which said animals, when so found, may be disposed of in the manner provided by the laws of the territory in reference to animals found trespassing upon the property of other persons, or when no person shall be in charge of such animals, they may be disposed of in the manner provided for by the laws in reference to estrays. Said board of trustees shall have power to rent or lease any of the lands held in common within the limits of the said grant and tract of land and not segregated and specifically owned by any individual or individuals outside of the undivided interest in said grant, and for the purpose of paying taxes and the other expenses of said board of trustees in the management and control of said tract of land and also to raise the means necessary to pay the amount due the United States for the official survey of said grant which was made under the direction of the

court of private land claims upon the confirmation of said grant by said court, said board shall and hereby is vested with power and authority to borrow money sufficient therefor and to mortgage any portion of the undivided parts of said grant and tract of land to secure the payment thereof.

Sec. 6. Said board of trustees shall make or cause to be made as far as possible a complete list of all the owners of undivided interests in said grant, resulting from purchases through mesne conveyances or by way of inheritance from the original grantees, their heirs and assigns, which lists shall show in brief any such conveyances and also the genealogy of the heir or person inheriting, and the amount actually owned by any such persons in the undivided parts of the said grant, and it shall also show the separate pieces of property owned by each individual and the description thereof and the amount thereof as far as possible to ascertain it, including all houses and lots and the improvements on such property, which said list shall be kept complete as near as possible from time to time by placing thereon the conveyances which may be made hereafter, as well as persons who may become heirs, and inherit portions of said property by reason of the death of their ancestors, showing from whom and to whom such interests are changed and showing as nearly as possible each year the actual ownership of all the undivided interests in said property and how obtained, as also the ownership of segregated interests in the property and how obtained, on the first day of May in such year.

Sec. 7. Should the said board of trustees not receive from the rents of the undivided interests of said property sufficient income to pay the costs of the administration thereof under this act and all taxes annually as they accrue thereon, as well as for the survey which was made by the United States herein referred to, or should said board borrow money to pay such expenses at any time, it is hereby authorized and empowered to assess a sufficient amount pro rata against the interest of each person owning an undivided portion of said grant and against the interest of persons owning separate or segregated portions of said grant, who do not return the same and pay taxes thereon under the general tax law of the territory, to enable said board to raise sufficient means or money to pay the expenses of the administration of said property under this act and also the taxes which may be assessed against it under the laws of the territory, and also to pay off the amount of any moneys which may be borrowed by said board for such purposes under the provisions of this act, and the treasurer of

said board is hereby made the collector to collect and receive such assessments; and in case any person fail or refuse to pay the same and suits be brought before the justice of the peace for the amount of such assessments made by said board, the action of the said board in making said assessment shall be *prima facie* evidence of the liability of the party to pay the same and such assessments made by said board shall be a lien upon the undivided interests of the person whose interest is assessed, as well as upon the separate pieces and parcels of land which may be assessed against any individual; it being understood distinctly, however, that should any person, owning a separate and distinct parcel of said land segregated from the undivided interest, return the same for taxation for county and territorial purposes under the general laws of the territory and pay the taxes thereon, he shall not be subject or liable to any such assessment or to pay the same. And all moneys which may be collected for rents or for damages for persons trespassing upon the said lands, either in person or with their animals, or where animals may have been allowed to trespass thereon shall be used for the purposes of paying the costs of the administration of said property and the taxes thereon, as well as paying for the survey thereof, and said board of trustees shall have the right to demand and collect damages from all persons who commit or may have committed any trespasses upon such land, or who use or may have used any of the land or any of the proceeds thereof without their authority, or use or may have used the waters thereof, or the minerals thereof without its authority, or who in any manner without authority of said board obtain or may have obtained any benefit from the use of said land, the waters, salt, coal, minerals or jasper thereon, or from any other resources of said land.

Sec. 8. The said board of trustees shall have power to bring suits, either before the justice of the peace or in the district courts, in reference to any matter affecting the interest of the said property hereby confided to its management and control, such actions so commenced to be governed as to jurisdiction in the same by the laws of this territory regulating the jurisdiction of the justice of the peace and of the district courts; such suits shall be brought in the name of "The Board of Trustees of the Cebilleta de la Joya Grant for the benefit of the owners in common thereof." And said board of trustees may also be sued in the name of "The Board of Trustees of the Cebilleta de la Joya Grant," the complaint in the last mentioned case may join all of the undivided owners of the said land grant therein as defendants, or it may allege that the

said suit is so brought for the purpose of affecting the interests of all the owners in common of said land grant and that all of such owners, except those constituting said board are too numerous to mention in the complaint, in which case it shall be unnecessary to mention them. Suits may be brought by said board among other things, for trespasses committed upon said property hereby authorized to be administered upon the pastures thereof, upon the woods, lumber, water, salt, coal, yaso or jasper, and for any and every violation of the rights of said property as belonging to the said owners of undivided interests therein, or wherein in any manner anything may have been done to or against said property whereby it, or any interest therein, or anything belonging to the said property shall be injured, interfered with or disturbed by reason of such damages in any degree may have occurred or brought about; and they shall have power and authority in like manner to bring suits, either before the justice of the peace or district court, according to the jurisdiction of such courts. for the collection of any assessments which may have been made by them against any of the owners of said property, as above authorized to be made, who may fail or refuse to pay the amount of such assessment made against them by said board; and they may also bring such suits, either before the district court or the justice of the peace court as will oblige and compel each owner of an undivided interest in said tract of land or of any other interest therein which has not been returned by the owner thereof for taxation and taxes paid thereon, to compel them to pay the proper pro rata corresponding to the amount of such land or such interest as will be necessary in the payment of the taxes which may be due upon said grant and in the payment of the current expenses of the administration of said grant and also in the payment for the survey of the said grant. And on any such judgments obtained for the purposes of compelling the parties sued to pay his or her proportionate part of the said expenses of administration and of the said taxes and of the amount due for said survey there shall be no right of exemption.

Sec. 9. The board of trustees hereby provided for shall not have power to sell and convey any portion of the property of the said grant and tract of land without the consent of two-thirds of all the parties owning undivided interests therein by purchase or inheritance from or through the original grantees of said grant and tract of land, but they shall have power to rent any undivided portion of said grant and tract of land for such terms as they may stipulate and to them may appear to be most convenient and proper.

Sec. 10. Said board of trustees shall hold regular meetings thereof every four months commencing on the first Monday in May next after the enactment of this law, and may when necessary call special meetings thereof at such times as may be deemed proper; such special meetings may be called by the president of said board, or by any two members thereof in case the president should be absent or refuse to call a meeting. And said board may employ from time to time an attorney or attorney at law when in the judgment thereof such attorney or attorneys may be necessary, to advise them or to conduct any suits instituted by them or defend any suits instituted against them; who shall be paid out of the moneys arising from the said grant and tract of land in the manners herein provided; and they shall also provide all necessary books, paper, utensils, office and office furniture, stamps and stationery on like account, which account shall be approved of by the president of said board and paid out of the funds or means arising from the said grant.

Sec. 11. The board of trustees provided for in this act shall not be held or construed in any manner to be a body corporate.

Sec. 12. Nothing in this act shall be construed or held to prevent any of the joint owners or co-owners in said grant of undivided interests therein or of any other person holding any separate or segregated interest therein, from disposing of, transferring or conveying the same, nor from bringing suit to segregate his or her portion from the remainder of the common property of said grant and tract of land, or from quieting the title to the same in any appropriate proceeding.

Sec. 13. This act shall be in force and effect from and after the first day of April, A. D., 1905.

CHAPTER 47.

AN ACT ENTITLED AN ACT IN RELATION TO INCORPORATED TOWNS AND VILLAGES. *A. C. B. No. 97; Approved March 10, 1905.*

CONTENTS.

Sec. 1. Election of officers of incorporated towns and villages.

Sec. 2. Term. Chapter 9, Laws of 1903, made applicable to towns and villages.

Be it enacted by the Legislative Assembly of the Territory of

New Mexico:

Section 1. Hereafter all trustees, mayor and other officers

of incorporated towns and villages now elected by law shall be elected on the first Tuesday of April of every two years.

Sec. 2. All mayors, trustees or other officers of incorporated towns or villages having a population not exceeding two thousand shall hold their offices for a term of two years, and the provisions of Chapter 9 of the Laws of 1903, approved February 28, 1903, is hereby extended and made applicable to such towns and villages; and such trustees shall hold and be elected to office for the same term and in the same manner as provided for the election of aldermen in said Chapter 9 of the Laws of 1903.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in full force from and after its passage and approval.

CHAPTER 48.

AN ACT PROVIDING FOR COMPULSORY FLAG LAW FOR THE TERRITORY OF NEW MEXICO. *C. B. No. 79; Approved March 10, 1905.*

CONTENTS.

- Sec. 1. Directors and boards of education to procure United States flag, for public schools.
- Sec. 2. United States flag to be displayed upon public school buildings.
- Sec. 3. Flag day.
- Sec. 4. Superintendent of public instruction to prepare programme of flag day exercises.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The boards of school directors of the various school districts and the boards of education of the cities and towns of this territory shall procure at the expense of their respective districts, towns or cities, for every public school not now provided therewith, a United States flag not less than five feet long, together with a flagstaff, and the necessary appliances therefor; and thereafter whenever the flag, flagstaff or the necessary appliances therefor of any such school shall from any cause become unsuitable for further use, such school boards of directors or boards of education shall in the same manner purchase others in place thereof.

Sec. 2. The school directors or boards of education in the various districts, cities and towns in the territory shall cause the United States flag to be displayed upon the public school

buildings or premises therein during school hours if in their best judgment it be practicable, otherwise at such times as they may direct, and such boards of school directors or boards of education shall also establish rules and regulations for the proper care, custody and display of the flag; and when, for any cause it is not displayed it shall be placed conspicuously in the principal room of the school building.

Sec. 3. The twelfth day of February, in each and every year hereafter, is hereby established in the annual school calendar to be known as flag day, in honor of the birthday of Abraham Lincoln, and shall be observed with patriotic exercises in the public schools, but such day shall in no wise be construed to be a holiday. It is also provided that when such day shall fall on Sunday or on Saturday, the following or preceding days respectively, as the case may be, shall be observed.

Sec. 4. It shall be the duty of the superintendent of public instruction to prepare a programme of patriotic exercises for the proper observance of flag day, and to furnish printed copies of the same to the school directors and boards of education of the various districts, cities and towns, at least four weeks previous to the twelfth day of February in each year; he shall also prepare for use of the schools a printed programme providing for a uniform salute to the flag, to be used daily during the session of the school.

Sec. 5. This act shall be in force and effect from and after its passage.

CHAPTER 49.

AN ACT AMENDING SECTION 182, OF THE COMPILED LAWS OF NEW MEXICO, OF 1807. *C. B. No. 91; Approved March 10, 1905.*

CONTENTS.

Sec. 1. Section 182, Compiled Laws of 1897, creating the cattle sanitary board, amended. Cattle sanitary board reorganized. Term. Appointment. Vacancies.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 182 of the Compiled Laws of 1897 be amended so as to read as follows:

"Sec. 182. A sanitary board consisting of six persons, each

of whom shall be a practical raiser and owner of meat cattle in this territory, is hereby created to be known as the Cattle Sanitary Board of New Mexico. The term of office of each member of the said board shall be two years from and after his appointment and until his successor shall have been appointed and qualified; each of the members of said board shall be nominated by the governor of the territory and confirmed by the legislative council. In case of any vacancy in the membership of said board by reason of death, resignation or otherwise, the governor shall fill such vacancy by appointment and the appointee shall hold such office until his successor shall have been appointed and qualified."

Sec. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 50.

AN ACT TO AMEND SECTION 19, OF CHAPTER 81, OF THE SESSION LAWS OF 1901, IN REGARD TO THE APPRAISEMENT OF ESTATES. *C. S. for H.B. No. 46; Approved March 10, 1905.*

CONTENTS.

- Sec. 1. Section 19, Chapter 81, Laws of 1901, regarding the appraisement of estates, amended. Property to be appraised by two disinterested persons. Compensation. Appraisement of property in a county other than where the administration is granted. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 19 of Chapter 81 of the Session Laws of 1901 be, and the same is hereby amended to read as follows: "After the inventory is filed the property therein specified shall be appraised at its true cash value, by two disinterested persons, one of whom shall be appointed by the probate judge of the county wherein such matter is pending, and the other by the executor or executrix, administrator or administratrix of such estate, which said appraisers shall receive the compensation now provided by law, except that no compensation or commission shall be allowed or paid to them or to any administrator or executor, administrator or administratrix, on account of any cash or life insurance policy, having a specified value, or upon any real estate which may be included in said inventory, but the same shall be carried into such

appraisement and administration free of charge or compensation to such appraisers, administrator or administratrix, executor or executrix; and if any part of the property shall be in a county other than that where the administration is granted the appraisers therein shall likewise be two in number, and shall be appointed as herein provided, and in such latter case a certified copy of the letters of appointment by such probate judge or court of another county, shall be filed with the inventory: *Provided*, That in any instance wherein any such two appraisers fail to agree upon the valuation of such property, then in such event the probate judge of such county shall be and constitute a third member of such appraising board, a majority of which shall control and determine the valuation thereof."

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in full force sixty days from and after its passage and approval.

CHAPTER 51.

AN ACT FOR THE BETTER PROTECTION OF GAME ANIMALS, BIRDS AND FISH WITHIN THE TERRITORY OF NEW MEXICO. *C. S. for C. B. No. 51; Approved March 13, 1905.*

CONTENTS.

- Sec. 1. Penalty for killing, trapping and ensnaring elk, mountain sheep, beaver and ptarmigan. *Proviso.*
- Sec. 2. Killing of certain birds and animals prohibited for period of five years. *Proviso.* Open season on certain birds and animals. *Proviso.*
- Sec. 3. Unlawful for restaurants or hotels to offer to patrons game fish or game killed in New Mexico. Game fish or game not to be held more than five days after close of season. Game fish or game imported by restaurants or hotels can be sold only on permit from warden or deputy. *Penalty.* *Proviso.*
- Sec. 4. Owner or lessee of lands to post notices prohibiting hunting or fishing. *Penalty.*
- Sec. 5. Unlawful to buy, sell or transport game or game fish caught or killed in the territory. *Penalty.*
- Sec. 6. Chapter 26, Laws of 1901, providing for the protection of game birds, repealed. Sections 6, 11, 14, 15, 16 and 18, Chapter 48, Laws of 1903, providing for the protection of game fish, repealed. Sections 1354, 1355, 1256, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, and 1367, Compiled Laws of 1897, regarding the protection of game and fish, repealed. Chapter 46, Laws of 1901, providing for the protection of certain game animals, repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. After the passage of this act it shall be unlawful to kill, trap, ensnare, or in any manner destroy or injure, at

any time, any elk, mountain sheep, beaver or ptarmigan within the Territory of New Mexico; and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not less than thirty days nor more than ninety days or by both such fine and imprisonment in the discretion of the court: *Provided*, That the territorial game and fish warden may grant permits for the capture of such beaver as interfere with the operation of any lawful canal, ditch or dam, and for the capture of beaver to be transferred from one stream to another.

Sec. 2. It shall be unlawful to kill, trap, ensnare, injure or destroy any antelope, pheasant, bob-white, quail or wild pigeon within the Territory of New Mexico for a period of five years after the passage of this act. It shall be unlawful to kill, trap, ensnare or in any manner injure or destroy any deer within the Territory of New Mexico, except that deer with horns may be killed with a gun only during the period commencing September 15, and ending October 31, of each year: *Provided*, That no person shall kill or have in his possession more than one such deer during said period in each year.

It shall be unlawful to kill, trap, ensnare, injure or destroy any turtledove within the Territory of New Mexico, except that such birds may be killed with a gun only, during the period commencing with the 1st day of August and ending with the 30th day of September of each year.

It shall be unlawful to kill, trap, ensnare or in any manner injure or destroy any native or crested quail within the Territory of New Mexico, except that such birds may be killed with a gun only, during the months of October, November and December of each year.

It shall be unlawful to kill, trap, ensnare or in any manner injure or destroy any wild turkey, mountain grouse, or prairie chicken within the Territory of New Mexico, except that such birds may be killed with a gun only during the months of October, November and December of each year.

Any person failing to comply with the provisions of this section or violating any of the provisions thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or by imprisonment for not less than thirty days nor more than sixty days, or by both

such fine and imprisonment in the discretion of the court: *Provided*, That one-half of all fines collected for violations of this act shall be turned into the county treasury of each county to be distributed in the school fund of the county in which the offense was committed.

Sec. 3. No game fish shall be held in possession of, or placed upon the table of any hotel, restaurant, cafe or boarding house, or named on its menu or bill of fare as food for its patrons either under the name used in this act or in the laws of New Mexico, or under any name or guise whatever when the same shall have come from any of the streams or waters within the Territory of New Mexico; or any game known as elk, deer, antelope, or mountain sheep, killed within the Territory of New Mexico, or any game birds known as wild turkey, mountain grouse, native or crested quail, turtle-dove, pheasant, bob-white quail, wild pigeon or ptarmigan, killed within the Territory of New Mexico; and none of the game animals, birds or fish mentioned in this section shall be held in possession by any person for more than five days after the close of the season for killing or taking the same; and whenever any proprietor, manager, keeper or owner of any hotel, restaurant, cafe or boarding house, shall import any game animals, birds or fish into the Territory of New Mexico, it shall be the duty of such proprietor, manager, keeper or owner, immediately to report the fact to the game and fish warden of the Territory of New Mexico, or to his deputy within the county, and to apply for a permit to sell and offer for sale the same; and upon satisfying the said warden or deputy by the production of invoices, bills of lading and other required proofs that such game animals, birds or fish, came from without the Territory of New Mexico, then a permit may be issued by such warden or deputy, for a period not greater than ten days, to such proprietor, manager, keeper or owner of such hotel, restaurant, cafe, or boarding house, allowing him to sell and offer for sale the same during the period stated in such permit: *Provided*, That the provisions of this section shall also apply to any business house or merchant within the Territory of New Mexico importing or offering for sale, or selling game animals, birds or fish brought from without said Territory.

Any person failing to comply with the provisions of this section or violating any of the provisions thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or

by imprisonment for not less than thirty days nor more than sixty days, or by both such fine and imprisonment in the discretion of the court.

Sec. 4. Whenever the owner or lessee of lands within any inclosure or pasture in the Territory of New Mexico shall desire to protect or propagate game birds, animals or fish within said inclosure or pasture, he shall publish notices in both English and Spanish, warning all persons not to hunt or fish within said inclosure or pasture, which notices shall be by hand bills posted in at least three conspicuous places on said premises, and by publication for three consecutive weeks in some newspaper of general circulation in the county wherein said premises are situate. After the publication and posting of such notices, it shall be unlawful for any person to enter upon said premises or inclosure for the purpose of hunting or fishing, or to kill or injure any birds, animal or fish within such inclosure or pasture at any time without the permission of such owner or lessee, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or by imprisonment for not less than thirty days nor more than sixty days or by both such fine and imprisonment in the discretion of the court.

Sec. 5. It shall be unlawful for any person or persons, agent or employe, or any association or corporation, to buy or sell, or expose or offer for sale, any species of trout, or game food fish taken from the streams or waters of the Territory of New Mexico; or any game known as elk, deer, antelope or mountain sheep, killed within the Territory of New Mexico; or any game birds known as wild turkey, mountain grouse, native or crested quail, turtle dove, pheasant, bob-white quail, wild pigeon or ptarmigan, killed within the Territory of New Mexico at any time; and it shall be unlawful for any railway, express company, stage line or other public carrier, or any of their agents or employes, to receive or have in their possession for transportation for market, any species of trout, or game food fish taken from the streams or waters of the Territory of New Mexico; or any game known as elk, deer, antelope, or mountain sheep, killed within the Territory of New Mexico, or any game birds known as wild turkey, mountain grouse, native or crested quail, turtle dove, pheasant, bob-white quail, wild pigeon or ptarmigan, killed within the Territory of New Mexico, or to transport the same for market, after the passage of this act, and any person or persons, agent or employe of any

such association or corporation, violating any of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00).

Sec. 6. Chapter 26 of the Session Laws of 1901 of the 34th Legislative Assembly of the Territory is hereby repealed; and sections 6, 11, 14, 15, 16, and 18 of Chapter 48 of the Session Laws of 1903 of the 35th Legislative Assembly are hereby repealed; and sections 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, of the Compiled Laws of the Territory of New Mexico of 1897 are hereby repealed; and Chapter 46 of the Session Laws of 1901 of the 34th Legislative Assembly of the Territory of New Mexico is hereby repealed; and this act shall take effect and be in force from and after its passage.

CHAPTER 52.

AN ACT TO AMEND SECTIONS TWO AND THREE OF AN ACT ENTITLED "AN ACT IN RELATION TO CRIME AND PUNISHMENT," APPROVED APRIL 2, 1884. H. B. No. 105; *Approved March 13, 1905.*

CONTENTS.

- Sec. 1. Sections 1150 and 1159, Compiled Laws of 1897, fixing penalties for the obstruction of railroad tracks, amended. Persons placing obstructions on railroad tracks with the intent to cause accident, guilty of felony. When persons placing obstructions will be guilty of assault with the intent to commit murder or guilty of murder. Abettors deemed principals. Penalties. Willful interference with engines, machines, structures and railroad appliances, a misdemeanor. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That sections two (2) and three (3) of an act of the 26th Legislative Assembly of the Territory of New Mexico, entitled "An Act in relation to crime and punishment," approved April 2, 1884, and appearing in the Compiled Laws of the Territory of New Mexico of the year 1897, as sections 1150 and 1159, respectively, be and the same are hereby amended so as to read as follows, viz:

"Sec. 2. Any person who shall place any obstruction upon any railroad track of any railroad company operating a rail-

road in this territory, or displace any switch, or break or remove any railroad, or tie, or spike or other thing, or excavate the road bed or otherwise injure or weaken the same, or cut or in any other manner interfere with any bridge, or trestle, or culvert, so as to weaken or impair the same, or do any act with intent to throw any locomotive car or train off such track, or to cause a collision between locomotives, cars or trains, or locomotives, cars or trains and other obstacles or do any other act calculated to endanger the safety of or disable any locomotives, cars, or trains that may be upon or running upon such track, shall be deemed guilty of felony and upon conviction thereof, shall be punished by imprisonment in the territorial penitentiary for a term not less than five nor more than ten years; and in case such act or acts shall result in the injury to the person of another, or shall cause the death of another, such person shall be deemed guilty of an assault with intent to commit murder or guilty of murder, as the case may be, and upon conviction thereof shall be punished as in other cases of assault with intent to commit murder. And any and all persons who shall combine, conspire, or contrive to perpetrate or shall counsel, aid, abet or assist in the perpetration of any of the offenses set forth in this section, on conviction thereof, shall be deemed to be principals and punished as in this section provided."

"Sec. 3. Any person or persons who shall wilfully do or cause to be done any act or acts whatever, whereby any building, construction or work of any kind, or any engine, machine, or structure, or thing, or road bed or tract, or anything appertaining to such track, or any property belonging to or appertaining to any railroad company operating a railroad in this territory shall be weakened, injured, impaired, obstructed, stopped or destroyed, shall be deemed guilty of a misdemeanor, and on conviction thereof shall forfeit and pay to such company treble the amount of damage sustained by reason of such act or acts and shall be fined not less than five hundred dollars or imprisoned in the county jail not exceeding six months or shall suffer both such fine and imprisonment in the discretion of the court."

Sec. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 53.

AN ACT ENTITLED AN ACT TO PERMIT COUNTY COMMISSIONERS TO MAKE LEVY FOR THE SUPPORT OF THE BOARD OF HORTICULTURAL COMMISSIONERS. *H. B. No. 55; Approved March 13, 1905.*

CONTENTS.

Sec. 1. County commissioners to make levy for the support of the board of horticultural commissioners.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That upon the application and demand of the board of horticultural commissioners of any county in this territory that the county commissioners of such county are hereby authorized to make a levy at the regular meeting of the county commissioners for making the general tax levy for such county to make a special levy of not to exceed one mill to be levied and collected as other taxes for the purposes of defraying any expenses incurred by the board of horticultural commissioners in carrying out and enforcing the provisions of sections 707, 708, 709, 710, 711, 712 and 713 of the Compiled Laws of 1897, and the said fund when so levied and collected by such board of county commissioners, shall be exclusively for defraying the expenses of the board of horticultural commissioners and for no other purposes, and shall be paid out by such board of county commissioners for such purposes only upon the order of such board of horticultural commissioners of such county.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. That an emergency exists and that this act shall take effect and be in force from and after its passage.

CHAPTER 54.

AN ACT AUTHORIZING COUNTY COMMISSIONERS TO LEVY A TAX FOR COURT HOUSE AND JAIL BUILDING PURPOSES, *A. H. B. No 39; Approved March 13, 1905.*

CONTENTS.

Sec. 1. County commissioners to levy a tax for purpose of creating court house building fund. Proviso.

Sec. 2. Moneys received to be credited to "Court House Building Fund."

- Sec. 3. County commissioners authorized to sell old court house and jail, applying proceeds toward erection of new buildings.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The county commissioners of any county not having a court house or jail, or a suitable court house and jail, in the judgment of said county commissioners thereof, are hereby authorized and directed to levy a tax annually, on all property subject to taxation within the confines of said county for the purpose of creating a fund with which to provide a court house in said county: *Provided*, That said levy shall not exceed five mills on the dollar in any one year.

Sec. 2. That all moneys received from such levy shall be placed to the credit of the fund to be designated "Court House Building Fund" until such time, as in the discretion of the county commissioners of such county there is sufficient money in said fund to provide a suitable court house.

Sec. 3. When any county herein referred to may have a court house and jail which shall not be suitable or necessary for such county, the county commissioners thereof are hereby authorized to sell and dispose of such court house and jail and the land on which they may be situate on the best terms obtainable and apply the proceeds thereof on liquidation of the cost and expenses of erecting such new court house and jail.

Sec. 4. This act shall be in full force and effect from and after its passage.

CHAPTER 55.

AN ACT ENTITLED AN ACT TO AMEND AN ACT RELATING TO LAWFUL FENCES. *H. B. No. 56; Approved March 13, 1905*

CONTENTS.

- Sec. 1. Section 1823, Compiled Laws of 1897, relating to the fencing of certain lands, amended. Fences required. Term, "cultivated lands" to apply to what lands.
- Sec. 2. Section 1824, Compiled Laws of 1897, defining the boundaries to be fenced, amended. New boundaries.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1823 of the Compiled Laws of 1897, be amended so as to read as follows: "That hereafter

all persons cultivating lands within that portion of this territory embraced within the boundaries hereinafter mentioned and described, shall be required to fence such cultivated land with a substantial and lawful fence of posts and boards, rails, poles or posts and wire or some good substantial fencing material, sufficient to turn horses, cattle, sheep or goats, and such fences shall be kept in good repair at all times and under all circumstances; that for the purpose of this act a substantial fence or lawful fence shall be such a fence built and constructed in a good and workmanlike manner and of good material of posts and boards, rails, poles or posts and wire or other good fencing material that will turn and keep out ordinary domestic animals or range stock such as cattle, horses, sheep or goats; and that the term "cultivated land" shall apply to all such lands as are used and cultivated for agricultural crops or purposes, for horticultural purposes, fruit crops or other crops, gardens, truck patches, pastures, meadows or any kinds of growing crops and no claims for damages to crops or cultivated lands by depredations of cattle, horses, sheep or goats, shall be allowed to any person or persons if he or they shall fail to comply fully with the provisions of this act.

Sec. 2. That Section 1824 of the Compiled Laws of 1897, be amended so as to read as follows: "This act shall apply to all cultivated lands embraced within the following boundaries, to-wit:

All that portion of the Territory of New Mexico lying north of the north line of township 20, north, to the north line of New Mexico; and all that portion of the Territory of New Mexico lying west of the range line between ranges 6 and 7 west, and including townships 31 and 32 north of ranges 7 west, and all that portion of township 30 north of ranges 7 west and all that portion of townships 31 and 32 north of range 6 west, to the west line of the Territory of New Mexico, and which said territory embraced in this act includes within its boundaries the territory embraced within San Juan county."

Sec. 3. That the provisions of this act shall be in full force and effect during all the time from the time this act becomes operative and goes into effect so long as the same be in force and that all acts or parts of acts inconsistent with or in conflict with this act shall be and are hereby repealed.

Sec. 4. That this act shall take effect and be in force from and after its passage.

CHAPTER 56.

AN ACT TO AUTHORIZE COUNTY COMMISSIONERS TO LEVY A DEFICIENCY TAX TO PAY FOR THE CONSTRUCTION OF PUBLIC BRIDGES. *H. B. No. 117; Approved March 13, 1905.*

CONTENTS.

- Sec. 1. County commissioners to levy a deficiency tax to pay for the construction of public bridges.
Sec. 2. Levy not to extend beyond next annual levy.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That for the purpose of meeting any deficiency of bridge funds, and the payment of any indebtedness of any county of this territory caused by the construction of any public bridge under an act entitled "An Act to provide for the construction of public bridges," approved February 14, 1899, the county commissioners of any county in which any public bridge has been constructed, and in which there is a shortage of bridge funds, may at their next annual levy of taxes, levy a tax on the personal and real property of the tax payers of the county, not to exceed two and a half mills on the dollar, which tax shall be collected in the manner now provided by law, for the collection of other taxes.

Sec. 2. That the levy of the tax herein provided for shall not extend beyond the next annual levy, and the money collected under said levy shall be used for no other purposes than the completion of public bridges now incomplete, and under construction; or repairing bridges heretofore constructed.

Sec. 3. This act shall take effect and be in force, thirty days after its passage.

CHAPTER 57.

AN ACT ENTITLED AN ACT TO AID IN ESTABLISHING A PERMANENT WATER RESERVOIR FOR IRRIGATING PURPOSES AT OR NEAR THE ELEPHANT BUTTE, NEW MEXICO, AND FOR THE IMPROVEMENT OF THE RIO GRANDE IN NEW MEXICO AND THE INCREASING OF THE SURFACE FLOW OF THE WATER IN THE BED OF SAID RIVER. *S. for H. B. No. 116; Approved March 13, 1905.*

CONTENTS.

- Sec. 1. Appropriation to the Elephant Butte Water Users' Association, account of expenses preparatory to work of United States reclamation service.
- Sec. 2. Money to be paid by territorial treasurer upon warrant of territorial auditor. From what funds moneys to be paid.
- Sec. 3. Statement of expenditures to be made by proper officers.
- Sec. 4. County commissioners of Sierra and Dona Ana counties to make "survey" levy. "Survey Fund."
- Sec. 5. Surveys to be under direction of executive officers of Elephant Butte Water Users' Association.
- Sec. 6. Statement of expenditures from "Survey Fund," to be made by executive officers.
- Sec. 7. Surplus in "Survey Fund" to be transferred to credit of current expense fund of county.

Whereas, the reclamation service of the geological survey of the United States, under the direction of the secretary of the interior, has determined that the best and most practicable site for a dam for the storage of water of the Rio Grande and the establishment of a permanent water reservoir for the purposes of irrigating the lands below said dam in the valley of the Rio Grande and for the improvement of the Rio Grande and the increasing of the surface flow of the water in the bed of said river in New Mexico, is near the Elephant Butte in New Mexico; and whereas, the United States requires the owners of lands to be irrigated from said reservoir to pledge their lands to secure their proportionate share of the cost of the construction of said dam and reservoir; and whereas, each acre of land will have to be pledged for forty dollars (\$40.00), to be paid in ten (10) annual installments before the work on said dam will be commenced; and whereas, it is necessary for the water users' association to be organized and incorporated for the object, amongst other things, to secure the requisite pledge of lands to be irrigated by the waters of said reservoir and river, from the owners thereof; and whereas, the organization of the water users' association by owners of land to be

irrigated from said reservoir and river under the name of the "Elephant Butte Water Users' Association of New Mexico," preliminary to the final adoption of its articles of incorporation and its incorporation under the laws of this territory, has been accomplished; and whereas, the Elephant Butte Water Users' Association of New Mexico intends to incorporate under the laws of this territory.

Now, therefore, to carry out the purposes expressed in the title of this act and to enable the said association to carry out and accomplish the purposes and objects for which it is formed and to secure the requisite pledge of lands to be irrigated by the waters of said reservoir and river from owners thereof, and to secure the construction of said dam and reservoir,

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The sum of two thousand five hundred dollars (\$2,500.00) or so much thereof as may be necessary, is hereby appropriated from any net moneys now or hereafter in the water reservoir income fund, water reservoir permanent fund, improvement Rio Grande permanent fund and improvement Rio Grande income fund, or from whatever fund or funds in which the net proceeds of the leasing and sale of lands granted to the Territory of New Mexico for the establishment of permanent water reservoirs for irrigation purposes and for the improvement of the Rio Grande in New Mexico and the increasing of the surface flow of the water in the bed of said river, and the income therefrom, shall be carried, and the further sum of ten per centum, or so much thereof as may be necessary, of any net moneys which may hereafter be placed to the credit of the aforesaid funds or any or either of them, from the sources above mentioned, to be paid in the manner hereinafter provided to the Elephant Butte Water Users' Association of New Mexico after its incorporation under the laws of the Territory of New Mexico, to be used in printing, publishing, and circulating all matter necessary to the full explanation of what is to be done by the reclamation service of the United States to the owners of land to be irrigated from the waters of said reservoir and river and what is to be done by them to secure the United States for its expenditures to be made in the construction of said dam and reservoir; in preparing and making all necessary deeds, mortgages and other instruments in writing required in the pledge of such lands; in doing all acts and things necessary to ascertain and determine the areas and perfect the titles of the lands to be pledged to the United States

for the building and construction of said dam and reservoir, mentioned in the title and preamble of this act; in paying all necessary expenses and costs of incorporation; and in paying the costs and expenses necessary or incidental to the accomplishment of the objects and purposes of said association relating to the procuring of the construction of said dam and reservoir and the improvement of the Rio Grande in New Mexico and increasing the surface flow of the water in the bed of the said river.

Sec. 2. Said moneys shall be paid from time to time as needed for the above purposes by the territorial treasurer upon the warrant of the territorial auditor to be issued by him upon requisition signed by the president and countersigned by the secretary of said association and approved by the commissioner of public lands in New Mexico. The territorial treasurer shall pay all warrants issued under the provisions of this act from net moneys in the improvement Rio Grande permanent fund and improvement Rio Grande income fund whenever there shall be sufficient available moneys in those funds to pay such warrants, and in case of insufficient net moneys in the last mentioned funds to pay such warrants, then the territorial treasurer must pay such warrants out of available moneys in the other funds mentioned in this act, to-wit: The water reservoir income fund and water reservoir permanent fund.

Sec. 3. The proper officer of said association shall make in duplicate a quarterly verified statement of the expenditures of such moneys showing for what purposes expended. Each statement shall be approved by the board of directors of said association and one copy thereof shall be filed with the territorial treasurer and one with the commissioner of public lands of New Mexico.

Sec. 4. The respective boards of county commissioners of the Counties of Sierra and Dona Ana are hereby authorized to make a levy of two mills, or such proportion thereof as may be necessary on each dollar of taxable property in their respective counties for the years 1905 and 1906, for the purpose of raising funds to defray any and all expenses incident to a proper survey of the lands in their respective counties and the determination of the areas thereof. Such levies shall be designated "survey," and the proceeds thereof shall be placed by the respective treasurers of said counties to the credit of a separate fund to be designated "Survey Fund."

Sec. 5. Said surveys, shall be made, and the labor incident thereto done and performed, under the direction and in the discretion of the executive officers of the Elephant Butte

Water Users' Association of New Mexico, and the moneys credited to the fund provided in Section 4 of this act shall be paid to said association from time to time as needed for the purposes mentioned in said Section 4, upon warrants drawn in the manner now provided by law for the disbursement of other county funds, to be issued upon requisition signed by the president and countersigned by the secretary of said association and approved by the commissioners of the county upon which drawn.

Sec. 6. Such officers of said association shall make in duplicate a quarterly verified statement of the expenditures of such moneys showing for what purposes expended. Each statement shall be approved by the board of directors of said association, and one copy thereof shall be filed with each of the boards of county commissioners of the counties mentioned in Section 4 of this act.

Sec. 7. Any surplus in the fund created by the provision of Section 4 of this act remaining after the carrying out of the purposes mentioned in said section, shall be transferred to the credit of the current expense fund of the county in which such surplus may exist.

Sec. 8. This act shall take effect and be in force from and after its passage and approval.

CHAPTER 58.

AN ACT TO AMEND AN ACT OF THE 36TH LEGISLATIVE ASSEMBLY, ENTITLED "AN ACT TO AMEND CHAPTER 69 OF THE SESSION LAWS OF THE 35TH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, BEING "AN ACT TO CREATE THE COUNTY OF LEONARD WOOD; AND FOR OTHER PURPOSES." *H. B. No. 169; Approved March 13, 1905.*

CONTENTS.

Sec. 1. Word "Roosevelt" stricken out.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the word "Roosevelt" be stricken out wherever the same appears in said act.

CHAPTER 59.

AN ACT PROVIDING FOR UNIFORMITY IN FILING OFFICIAL BONDS. C. B. No. 105; Approved March 14, 1905.

CONTENTS.

Sec. 1. Bonds of territorial officials to be filed and kept in office of territorial secretary.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter the bonds of all territorial officials, and of the members of all territorial boards and institutions, after having been recorded as now required by law, shall be filed and kept in the office of the secretary of the territory; and all territorial bonds now filed elsewhere shall be transferred to the office of the secretary.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in force from and after its passage.

CHAPTER 60.

AN ACT TO REGULATE THE CLASSIFICATION OF COUNTIES AND FIXING THE SALARIES OF CERTAIN COUNTY OFFICIALS THEREOF. A. C. B. No. 99; Law by Limitation, March 14, 1905.

CONTENTS.

Sec. 1. Classification of counties to be determined by amount of annual collections from territorial levy.

Sec. 2. Compensation of county commissioners. Proviso.

Sec. 3. Compensation of probate judges.

Sec. 4. Compensation of probate clerks.

Sec. 5. Compensation of school superintendents.

Sec. 6. Section 6, Chapter 27, Laws of 1901, fixing the compensation of school superintendents, repealed.

Sec. 7. Classification of counties to be determined by traveling auditor.

Sec. 8. Violations of duties by county commissioners.

Sec. 9. Salaries of Santa Fe county officials unaffected.

Sec. 10. Assessors allowed for services 4 per cent. upon moneys collected.

Sec. 11. Treasurers allowed for services 4 per cent. upon moneys collected.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Chapter 1. Whenever any county of this territory shall remit to the territorial treasurer, thirty-five thousand dollars, or

over, during any one year, the same being the proceeds of the collections from the territorial levy for the year in question, such county shall be deemed a county of class "A." Over twenty-seven thousand and under thirty-five thousand dollars a county of class "B." Over twenty thousand and under twenty-seven thousand dollars, a county of class "C." Over fifteen thousand and under twenty thousand dollars, a county of class "D." And under fifteen thousand dollars a county of class "E." The collections herein given are based upon a levy of fifteen and one-half mills.

Sec. 2. The county commissioners of the several counties of this territory shall receive the following compensation :

In Counties of Class "A"	\$800.00 per annum ;
In Counties of Class "B"	500.00 per annum ;
In Counties of Class "C"	400.00 per annum ;
In Counties of Class "D"	300.00 per annum ;
In Counties of Class "E"	200.00 per annum ;

and five cents per mile for each mile actually and necessarily traveled in going to and from regular meetings of such board : *Provided*, That the meetings of said boards shall not exceed twelve in number in each year.

Sec. 3. The probate judges of the several counties of this territory, shall receive the following compensation :

In Counties of Class "A"	\$600.00 per annum ;
In Counties of Class "B"	500.00 per annum ;
In Counties of Class "C"	400.00 per annum ;
In Counties of Class "D"	250.00 per annum ;
In Counties of Class "E"	200.00 per annum ;

Sec. 4. The probate clerks of the several counties of this territory shall receive the following compensation as ex-officio clerks of the boards of county commissioners, in addition to the fees now allowed by law to such probate clerks and ex-officio county recorders, and no more :

In Counties of Class "A"	\$1,000.00 per annum ;
In Counties of Class "B"	750.00 per annum ;
In Counties of Class "C"	600.00 per annum ;
In Counties of Class "D"	400.00 per annum ;
In Counties of Class "E"	400.00 per annum ;

Sec. 5. The county school superintendents of the several counties of this territory shall receive the following compensation :

In Counties of Class "A"	\$1,500.00 per annum ;
In Counties of Class "B"	1,000.00 per annum ;
In Counties of Class "C"	900.00 per annum ;

In Counties of Class "D" 600.00 per annum;

In Counties of Class "E" 400.00 per annum.

Sec. 6. Section 6 of Chapter 27 of the Laws of the 34th Legislative Assembly of this territory is hereby repealed, to take effect January 1, 1907.

Sec. 7. The classification of the several counties of this territory shall be made each year by the territorial traveling auditor, and shall be ascertained and determined from the sums paid into the territorial treasurer by the collectors of the several counties of this territory, for the fiscal year ending on November 30th, and previous to the year for which services are to be rendered, and the territorial traveling auditor shall immediately after the passage of this act, and hereafter on or before December 31st, of each year, certify to each board of county commissioners the classification of their respective counties for the ensuing year, ascertained and determined in the manner hereinbefore prescribed.

Sec. 8. Any member of any board of county commissioners of this territory, after the notice of classification of their respective counties has been certified to them by the territorial traveling auditor, who shall neglect to perform the duties imposed upon such board in Section 7 of this act shall be liable to summary removal by the governor of this territory.

Sec. 9. This act shall in no manner affect or change the salaries of the county officials of the County of Santa Fe for the years 1905 and 1906.

Sec. 10. The county assessors of the several counties of this territory shall be allowed for their services four per centum upon all moneys collected upon assessments upon taxable property made by them, and also upon all mercantile licenses assessed by them, and no more, under any circumstances, whatever, to be paid out of moneys collected on said assessment, and to be paid as other moneys are disbursed on warrants of the county commissioners.

Sec. 11. The county treasurers and ex-officio collectors of the several counties of this territory shall be allowed, and shall receive, for their services four per centum upon all moneys for taxes and licenses collected or received by them, within their respective counties.

Sec. 12. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in full force on and after April 1, 1905, except Section 6 of this act, which shall take effect as provided for.

CHAPTER 61.

AN ACT TO PROVIDE FOR THE COLLECTION OF POLL TAX
IN THE TERRITORY OF NEW MEXICO. *H. B. No. 92; Ap-
proved March 14, 1905.*

CONTENTS.

- Sec. 1. Section 1549, Compiled Laws of 1897, regarding poll tax, amended. Poll tax levy. Duties of clerk of school district in respect to poll tax. Taxes to be paid to county treasurer. Provisos.
- Sec. 2. Section 1550, Compiled Laws of 1897, regarding district clerk's duties in respect to poll tax, amended. Duty of district clerk to prepare lists of persons liable to pay poll tax.
- Sec. 3. Section 1551, Compiled Laws of 1897, requiring county assessor to make poll tax list, repealed.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

Section 1. That Section 1549 of the Compiled Laws of 1897 be amended so as to read as follows:

"Section 1549. That a poll tax of one dollar shall be levied upon all able bodied male persons of the age of twenty-one years or over, for school purposes. It shall be the duty of the clerks of the various school districts of the Territory of New Mexico to make out separate lists of all persons liable to pay a poll tax, resident in their respective districts and the said clerk shall receive three dollars, to be paid out of any funds in the hands of the directors of said school district for such service, and no other person shall receive a recompense for such service. It shall be the duty of the said school district clerk to collect said poll tax and said clerk shall receive ten per centum of all moneys collected from poll taxes. The school district clerks are hereby empowered to bring suit in the name of the school district for the collection of said poll tax, if not paid within thirty days after the first demand has been made for the payment of same from any person so delinquent. All poll taxes shall be paid to the county treasurer for the use of the respective school districts in which the same are collected, and the treasurer shall pay to the school district clerk his percentage of the gross amount collected: *Provided*, That no resident of any school district shall pay his poll tax to any other district than the one in which he resides: *And, Provided, Further*, That no poll tax shall be received by any district clerk from any resident of any other school district. No property

shall be exempt from execution in suits for collection of poll taxes and the justices of the peace and constables shall not demand fees in advance for such suits."

Sec. 2. That Section 1550 of the Compiled Laws of 1897 be amended so as to read as follows:

"Section 1550. It shall be the duty of the school district clerks to make at least four copies of the names of persons liable to pay poll tax, and on the first Monday in February he shall post one of said lists in some conspicuous place in their respective districts for the information of the people, and on or before the first Monday in April the school district clerks shall report to the county clerk a complete list of said persons liable to pay a poll tax in their respective districts, and shall report said list to the county superintendent in writing, and shall report to said superintendent the amount of poll tax collected, from whom collected, the names of persons still delinquent and the reasons for such delinquency, and further one list of such persons liable to pay a poll tax shall be filed in the office of said clerks."

Sec. 3. Section 1551 of the Compiled Laws of 1897 is hereby repealed.

Sec. 4. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect from and after its passage.

CHAPTER 62.

AN ACT TO PREVENT THE DEFRAUDING OF LIVERY STABLE KEEPERS AND PROVIDING PENALTY THEREFOR, *H. S. H. B. No. 18; Approved March 14, 1905.*

CONTENTS.

- Sec. 1. Fine for injury to property of livery stable keepers.
Sec. 2. Fine for refusal to pay agreed price of the hired property of livery stable keepers.
Sec. 3. Duty of livery stable keeper to post printed copy of act.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter any person or persons who shall directly or indirectly hire from the owner or keeper of any livery stable or from any other person any animal or animals or vehicles, and who shall wilfully and maliciously break or

destroy such vehicle so hired, or wilfully injure such animal, shall be fined in a sum not to exceed twenty-five dollars (\$25.00), and in addition to said fine shall be compelled to pay said owner or keeper a sum of money sufficient to reimburse him for the loss sustained by said animal or animals being injured or said vehicle being destroyed or damaged.

Sec. 2. Any person or persons who shall directly or indirectly hire or cause to be hired from the owner or keeper of any livery stable, and upon returning same, refuse to pay the price agreed upon, unless it had previously been agreed that said person so hiring should not pay for the use thereof in money on demand, said person so refusing shall be fined in the sum not to exceed twenty-five dollars (\$25.00).

Sec. 3. It shall be the duty of the owner or keeper of every livery stable within this territory to keep a copy of this act, printed in large, plain English type, posted in a prominent place in the barn or stable where his business is carried on and no conviction shall be had under this act until it be made to appear to the satisfaction of the court that the provisions of this section have been complied with by the person making the complaint.

Sec. 4. This law shall be in force from and after thirty days after its passage.

CHAPTER 63.

AN ACT WITH REFERENCE TO TAXATION BY MUNICIPAL CORPORATIONS. *H. B. No. 126; Approved March 14, 1905.*

CONTENTS.

Sec. 1. Special tax levy to pay for the supplying of water and lights furnished municipal corporations. Proviso. Refusal of water or light company to supply service. Fine for such refusal. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That whenever the right to build, maintain and operate works for the supplying of water and light has been, or may be granted to individuals or corporations in cities or towns in this territory and any such cities or towns have contracted or shall contract with such individuals or corporations for supplying water and lights for public or municipal purposes, such city or town shall levy each year and cause to be

collected a special tax sufficient to pay the amounts so agreed to be paid for the supplying of water or lights not exceeding the sum of four mills for water and two mills for lights on the dollar for any one year.

Provided, That this shall not authorize any increase in the total amount of taxes now authorized to be carried by such cities and towns, but such total taxes for all purposes shall remain as now enacted by law, and moneys derived in the manner herein described shall be used for no purpose other than specified herein.

That any water or light company doing business in this territory who shall refuse to allow to any person or persons the use of water or light for domestic purposes after such person or persons shall have applied for the same, and has or have therefor tendered to such company the just amount of money for rent and expenses for constructing same if further construction be necessary for furnishing same, or charges required by regulation for such use of water or light, shall be deemed guilty of a misdemeanor and shall be fined in a sum not less than ten dollars and not more than twenty-five dollars and shall be liable to the person tendering such money in the sum of double the amount so tendered:

Provided, That this act shall not be held to apply to persons who may be in arrears upon any contract with such water or light company.

Sec. 2. All acts and parts of acts in conflict with this act are repealed and this act shall be in force from and after its passage:

CHAPTER 64.

AN ACT FOR THE ENFORCEMENT OF DELINQUENT TAXES ON
PROPERTY IN THE HANDS OF A RECEIVER. *H. B. No. 123;*
Approved March 14, 1905.

CONTENTS.

- Sec. 1. Grants of delinquent taxes payable upon property in hands of receiver, to be determined by court. Order upon receiver to pay taxes. Default.
- Sec. 2. Attorney appointed by county commissioners to bid at sale for property necessary to pay delinquent taxes.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. In all cases where taxes are due and delinquent upon property in the hands of a receiver in the Territory of New Mexico, the district attorney of the district in which such property is situated or any other attorney appointed by

the board of county commissioners may make application to the court appointing such receiver, to have such receiver cited forthwith to appear before said court and make answer as to why said taxes are unpaid, whereupon the said court in said cause shall immediately determine the amount of such delinquent taxes in which said property is returned for taxation, and upon such determination shall issue an order directing such receiver to pay said taxes within a time to be fixed by the court, not to exceed sixty days, and in default thereof, the sheriff of the said county be directed to make sale of the said property as now provided by law for the sale of other property under execution.

Sec. 2. Such district or other attorney so appointed by the commissioners of the county, at such sale is hereby authorized to bid for and purchase for said county in default of other bidders at such sale so much of said property as may be necessary to pay said taxes, and such county shall hold said property and shall lease or sell the same, subject to the right of redemption from tax sale as now provided by law.

Sec. 3. This act shall be in force and effect from and after its passage, and all laws or parts of laws in conflict with this act are hereby repealed.

CHAPTER 65.

AN ACT REGARDING MARRIAGES, PROVIDING FOR UNIFORM SYSTEM OF RECORDS THEREOF AND FOR OTHER PURPOSES. *H. B. No. 129; Approved March 14, 1905*

CONTENTS.

- Sec. 1. Marriage license obtained from probate clerk.
- Sec. 2. Clerk to issue license upon proof of legal qualifications.
- Sec. 3. Persons authorized to solemnize marriage, to require production of license.
- Sec. 4. Marriage certificate to be sent to probate clerk. Duty of probate clerk to record certificate.
- Sec. 5. Records of civil magistrates and religious societies, not interfered with, by act.
- Sec. 6. Fee of probate clerk, for issuing license and recording certificate.
- Sec. 7. Specific form to be used.
- Sec. 8. Forms: Application for Marriage License, Consent of Parent or Guardian, Marriage License, Marriage Certificate.
- Sec. 9. Violations of provisions of act, misdemeanor.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That hereafter all persons desiring to enter into a marriage relation in the Territory of New Mexico, shall ob-

tain a license from the probate clerk in the county where they desire the marriage to occur.

Sec. 2. Whenever said parties reside more than ten miles from the county seat, of any county, they may, if they so desire, make application for such license before any person authorized to perform marriages who shall interrogate them in the manner prescribed by this act, and the laws of the Territory of New Mexico certifying the same to the probate clerk in writing, without expense to applicant for such service. Upon satisfactory proof being produced that the parties are legally qualified to marry the probate clerk shall thereupon issue a license under the seal of said court authorizing said parties to contract marriage.

Sec. 3. All persons authorized to solemnize marriage shall require the parties contemplating marriage to produce a license signed and sealed by the probate clerk authorizing said marriage. Nothing in this act shall excuse any person from exercising the same care in satisfying himself as to the legal qualifications of any parties desiring him to perform the marriage ceremony, now required of him by law, in addition to the authority conferred by the license aforesaid.

Sec. 4. It shall be the duty of all persons performing the marriage ceremony in this territory as herein provided, to certify said marriage to the probate clerk within ninety days from the date of marriage. The probate clerk shall immediately upon receipt of said certificate cause the same to be properly recorded and indexed in a permanent record book kept for that purpose as a part of the county records.

Sec. 5. Nothing in this act shall be construed to in any manner interfere with the records kept by any civil magistrate, religious society or church organization, or with any additional form of ceremony, regulation or requirement prescribed by them.

Sec. 6. For issuing license, recording, and indexing it and recording and indexing the certificate of marriage when properly certified to his office, the probate clerk shall receive a fee of one dollar payable by applicant at time of making application for license.

Sec. 7. To insure a uniform system of records of all marriages hereafter contracted, and the better preservation of said record for future reference, the form of application, license and certificate provided herein shall be substantially as follows, each blank to be numbered consecutively corresponding with page number of the record book in the clerk's office; all such blanks to be provided free of cost by the county for public

use. A copy of this act to be posted by the clerk in at least three conspicuous places in each precinct for twelve months after its passage.

Sec. 8.

NO———.

APPLICATION FOR MARRIAGE LICENSE.
TERRITORY OF NEW MEXICO, COUNTY OF

To the Probate Clerk: I hereby make application for a license to unite in marriage with whose age is I certify I was born at....., on theday of I.... That I am now a resident of; that we are not related within the degree prohibited by the laws of this territory; that neither of us are bound by marriage to another; that there exists no legal impediment to said marriage.

.....
Subscribed and sworn to before me thisday of A. D., 19....

(Use same form for second party).

CONSENT OF PARENT OR GUARDIAN (where either party is under age).

I, the parent (or guardian) of hereby consent to the granting of a license to marry, waiving the question of minority.

.....
MARRIAGE LICENSE.

Territory of New Mexico,)) SS.
County of)

TO ANY PERSON AUTHORIZED BY LAW TO PERFORM THE MARRIAGE CEREMONY: GREETING:

You are hereby authorized to join in marriage..... of and of and of this license you will make due return to my office within the time prescribed by law.

Witness my hand and the seal of said court at this day of 19....

.....
Probate Clerk.

Recorded 19.... at.... M.

In marriage record book No., page....

.....
Probate Clerk and ex-Officio County Recorder.

MARRIAGE CERTIFICATE.

Territory of New Mexico,))SS.
County of)

I hereby certify that on the day of A. D., 19...., at in said county and territory, I, the undersigned, a, did join in the HOLY BONDS OF MATRIMONY, in accordance with the laws of the Territory of New Mexico and the authorization of the foregoing license of and of

Witness my hand and seal the day and year last above written.

.....
(Official Title).....

WITNESSES:

.....
.....
Signed Groom. Signed Bride.
Recorded this day of A. D., 19...., at.... M.
Marriage Record Book No. Page No.

.....
Probate Clerk and Ex-Officio County Recorder.

Sec. 9. Any probate clerk, or person authorized by law to perform the marriage ceremony, who shall neglect or fail to comply with the provisions of this act, and any person who shall wilfully violate the law by deceiving or attempting to deceive or mislead any officer or person authorized to perform the marriage ceremony in order to obtain a marriage license or to be married, contrary to law, shall be deemed guilty of a misdemeanor and upon conviction be fined in any sum not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both fine and imprisonment, in the discretion of the court.

Sec. 10. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in full force thirty days after its passage.

CHAPTER 66.

AN ACT CREATING THE OFFICE OF OIL INSPECTOR AND PROVIDING FOR THE INSPECTION OF COAL OIL, GASOLINE AND NAPHTHA, IN THE TERRITORY OF NEW MEXICO. *H. B. No. 74; Approved March 14, 1905.*

CONTENTS.

- Sec. 1. Office of coal oil inspector established. Term. Inspection of coal oil, gasoline and naphtha. Proviso.
- Sec. 2. Coal oil inspector to give bond. Appointment of deputy inspectors.
- Sec. 3. Duties of inspector.
- Sec. 4. Importation of oil, below required standards, a misdemeanor. Penalty. Proviso.
- Sec. 5. Inspector's mark to be kept on all packages containing oil. Penalty.
- Sec. 6. Placing of stamp on packages containing oil below required standard, a misdemeanor. Penalty.
- Sec. 7. Failure of coal oil inspector to perform duty, malfeasance in office.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. There is hereby established the office of Coal Oil Inspector of the Territory of New Mexico; there shall be appointed by the governor of this territory, by and with the advice and consent of the council of the legislature, a competent person to the office of oil inspector of the Territory of New Mexico, who shall hold his office for the term of two (2) years until successor shall be duly appointed and qualified.

It shall be the duty of said inspector to inspect all oils, commonly known as coal oil, gasoline, naphtha or any fluid or substance which is a product of petroleum, or in which petroleum or any product of petroleum is found as a constituent element, that may be transported or brought into this territory for sale or use or which may be kept for sale or offered for sale, for the purpose of illumination by any person or persons, company or corporations, and to plainly and distinctly mark, stamp or brand upon the package or packages in which the oil may be contained for sale, or offered for sale, the degree of fire test and specific gravity of the oil therein contained, so offered for sale: *Provided*, That any retail dealer may be allowed to draw off from said original package or packages for the purpose of convenience in retailing the same and place said oil in a tank for the purpose of retailing therefrom any of the oil aforesaid, upon which inspection the mark, brand or stamp may have been attached.

Sec. 2. The oil inspector shall give bond to the Territory of New Mexico in the penal sum of ten thousand (\$10,000.00) dollars conditioned for the faithful performance of his duties. He shall have power to appoint one or more deputy inspectors for whose conduct and efficiency he shall be held responsible, upon official bond, for any failure or neglect of their duties as such deputy inspectors.

Sec. 3. The inspector or deputy inspectors is entitled to demand and receive from the owners of any oil, gasoline or naphtha inspected, one (1) cent for each gallon so inspected. It shall be the duty of each inspector and each deputy inspector to keep an accurate record of any oil, gasoline or naphtha branded by him which report shall state the date of such inspection, the number of packages, boxes, barrels or tanks inspected, the number approved, the manufacturers brands, the name of the person for whom inspected and the sum of money received for inspection, and such report shall be open to all persons interested in the same. At the beginning of every month each deputy inspector shall forward to the territorial inspector, a true copy of such record and all moneys received by him for his inspections. In the month of January in each year, the territorial inspector shall make and deliver to the governor of the territory a report of the inspection by himself and deputies during the preceding calendar year.

Sec. 4. Any person or persons, firm, company or corporation or any agents of any person or persons, firm, company or corporation who shall transport or bring into this territory for sale or use, or who shall keep for sale or use, or who shall offer for sale or use, any mineral or petroleum, oil, gasoline, or naphtha, or fluids or substance which is the product of petroleum or in which petroleum or any product of petroleum enters. or is found as a constituent element, either at wholesale or retail, that is less than what is known as 120 degrees, fire test. or which has a specific gravity of less than 43 degrees, and any person or persons, firm, company or corporation or any agent of any person or persons, firm, company or corporation who shall transport or bring into this territory for sale or who shall sell or offer for sale or use any gasoline, by or under whatever name it may be called, which has a specific gravity of less than 63 degrees shall be guilty of a misdemeanor and upon conviction thereof shall be punished by fine in any sum not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars, or by imprisonment in the county jail for not less than sixty (60) days, nor more than six (6) months, or both such fine and imprisonment at the

discretion of the court trying such cause: *Provided*, That nothing herein shall be construed to prevent the shipment of oil into this territory notwithstanding the same may not have been inspected, but the same shall be inspected under the provisions of this act before being sold or used.

Sec. 5. Any person or persons, firm, company or corporation or any agent thereof, having or keeping for sale any oil, gasoline, or naphtha to be used for the purposes aforesaid, shall keep conspicuously placed on all packages, boxes, barrels or tanks containing any of the oil aforesaid, the inspector's mark, brand or stamp, showing the degree of fire test, and the specific gravity as otherwise provided in this act, and that the same has been inspected by the oil inspector of the territory, and that such oil, if other than gasoline is not below the fire test of 120 degrees and not below 43 degrees specific gravity and if gasoline, is not below 63 degrees specific gravity, and any person or persons, firm, company or corporation, violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be liable to the fine and penalties imposed in Section 4 of this act.

Sec. 6. Any oil inspector or deputy oil inspector who shall mark, stamp or brand any package or packages, required to be inspected by this act, as containing oil or gasoline of the fire test and specific gravity herein required, when said package does not contain oil or gasoline of the specific gravity and fire test herein required shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1,000.00) dollars, or by imprisonment in the county jail for not less than sixty (60) days nor more than six (6) months, or by both such fine and imprisonment, at the discretion of the court trying such cause.

Sec. 7. The failure on the part of any oil inspector to perform his duties as required, shall be considered a malfeasance in office, for which he may be removed from office by the governor.

Sec. 8. This act shall take effect and be in full force from and after its passage.

CHAPTER 67.

AN ACT RELATING TO MUNICIPAL CORPORATIONS. *C. B. No. 128; Approved March 14, 1905.*

CONTENTS.

Sec. 1. Municipal officers not personally liable for official acts.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. No personal action shall be maintained in any court of this territory against any member or officer of any municipal corporation in this territory for any tort or act done, or attempted to be done, by such member or officer, when done by authority of such municipal corporation, or in execution of the orders thereof; in all such cases the municipal corporation shall alone be responsible; and any such member or officer may plead the provisions of this act in bar of such action whether the same be now pending or hereafter commenced.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and effect from and after its passage.

CHAPTER 68.

AN ACT ENTITLED "AN ACT TO LICENSE OSTEOPATHIC PHYSICIANS AND SURGEONS TO PRACTICE IN THE TERRITORY OF NEW MEXICO, TO ESTABLISH A BOARD OF OSTEOPATHY, TO REGULATE THE PRACTICE OF OSTEOPATHY AND TO PUNISH ALL PERSONS VIOLATING THE PROVISIONS OF THIS ACT." *A. C. B. No. 82; Approved March 14, 1905.*

CONTENTS.

- Sec. 1. Territorial board of Osteopathy created. Appointment. Qualifications. Term.
- Sec. 2. Organization. Meetings.
- Sec. 3. Expenses.
- Sec. 4. Fees.
- Sec. 5. Rules and regulations.
- Sec. 6. License. Fee.

Sec. 7. Application for certificate to practice osteopathy. Fee. Form and contents of application. Certificate to be recorded with probate clerk. Fee.

Sec. 8. Penalty for violations of act.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The governor of this territory shall appoint a board within ten days after the passage of this act and biennially thereafter, and shall fill all vacancies.

The board to be known as the Territorial Board of Osteopathy and shall consist of three legally qualified resident practicing osteopathic physicians, each of whom shall have been actively engaged in the practice of osteopathy in this territory for at least one year prior to their appointment, and shall serve for a term of two years, and until their successors shall have been duly appointed and confirmed by the legislative council.

Sec. 2. Said board of osteopathy shall elect a president, secretary and treasurer, and shall have a common seal, and its president and secretary shall have power to administer oaths.

Said board shall hold meetings in the City of Santa Fe, in the capitol building, in the rooms provided for it by the capitol custodian committee, on the first Monday in April and September of each year, and such other meetings as may be deemed necessary; and shall issue certificates of qualifications to all applicants who meet the requirements of this act.

Sec. 3. Said board shall create no expense exceeding the sum received from time to time as fees as hereinafter provided.

Sec. 4. The fees coming into the treasury of said board shall be paid out upon warrants of the president and secretary thereof in payment of the compensation and expenses of said board in carrying out the provisions of this act.

Sec. 5. Said board shall make such rules of procedure for the regulation of all matters of applications and hearings before it as it may deem advisable.

Sec. 6. Any person who at the time of the passage of this act, shall be actually in the practice of osteopathy in this territory, shall be entitled to receive such license upon making application to the board at its first regular meeting and paying a fee of five (\$5.00) dollars and satisfying the board that he was lawfully engaged in the practice of osteopathy in this territory, at the time of the passage of this act.

Sec. 7. Any person before engaging in the practice of osteopathy in this territory, after the passage of this act, shall,

upon the payment of a fee of twenty-five (\$25.00) dollars, make application for a certificate to practice osteopathy to the board of osteopathy, on a form prescribed by the board, i. e.,

1st, Evidence of good moral character; 2nd, preliminary education equal to a high-school diploma or teacher's certificate; 3rd, the name of the school or college of osteopathy from which he or she was graduated, and which shall have been in good repute as such at the time of the issuing of their diploma, as determined by the board; 4th, the date of their diploma and evidence that such diploma was granted on personal attendance and completion of a course of study of not less than three full terms of nine months each in three separate years: *Provided, However,* That the board may in its discretion receive applications for the examination from osteopaths who have graduated from a reputable osteopathic college of not less than two years course and furnishing evidence of field practice of not less than one year, and such other information as the board may require. And such applicant shall at the regular meeting of the board, submit to an examination in the following branches, to-wit: Anatomy, physiology, chemistry, and toxicology, pathology, gynecology, obstetrics, diagnosis, hygiene, dietetics, surgery and theory and practice of osteopathy and such other subjects as the board may require.

The person receiving said certificate shall have same recorded in the office of the probate clerk of the county in which he or she intends to practice, and shall pay a fee of one dollar and fifty cents (\$1.50) and the record shall be endorsed thereon. In case a person removes to another county to practice, the holder shall record his certificate in like manner in the county to which he or she removes.

Sec. 8. Any person practicing osteopathy within the territory without first having obtained the certificate herein provided for, or contrary to the provisions of this act, or who, for the purpose of obtaining such license, shall falsely represent himself or herself to be the holder of a diploma as herein provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty (\$50.00) dollars nor more than one hundred (\$100.00) dollars or by imprisonment in the county jail for a period of not more than ninety days for each and every offense.

Sec. 9. This act shall take effect and be enforced from and after its passage and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 69.

AN ACT TO AMEND SECTION 2608, OF THE COMPILED LAWS OF THE TERRITORY OF NEW MEXICO OF 1897. A. C. B. No. 15; Approved March 14, 1905.

CONTENTS.

Sec. 1. Section 2608, Compiled Laws of 1897, relating to the appointment and terms of the territorial treasurer and auditor, amended. Treasurer and auditor to keep office at seat of government. How appointed and term of office. Bond.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 2608 of the Compiled Laws of the Territory of New Mexico be and the same is hereby amended so as to read as follows:

"Section 2608. The territorial treasurer and the auditor of public accounts of the territory shall keep their offices at the seat of government of the territory. They shall be nominated by and with the consent of the legislative council, appointed by the governor and shall hold their offices for and during the term of two years, and until their successors are appointed and qualified. They shall, before entering upon the discharge of their duties, respectively, execute and deliver to the secretary of the territory a bond to the territory in the sum of three hundred thousand dollars for the treasurer, and twenty-five thousand dollars for the auditor of public accounts, with good and sufficient sureties and as now provided by law, to be approved by the governor and conditioned for the faithful discharge of the duties required or which may be required of them by law. The approval of the governor and the date thereof shall be endorsed on the bond. Said bond to be given within twenty days after the appointment is made."

Sec. 2. That all acts and parts of acts in conflict herewith are hereby repealed and this act shall be in force and effect thirty days after its passage.

CHAPTER 70.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH AN INSURANCE DEPARTMENT IN THE TERRITORY OF NEW MEXICO AND TO REGULATE INSURANCE COMPANIES DOING BUSINESS THEREIN," APPROVED FEBRUARY 9, 1905. *C. B. No. 123; Approved March 14, 1905.*

CONTENTS.

- Sec. 1. Section 9, Chapter 5, Laws of 1905, amended. Word "Superintendent" substituted for word "Commissioner."
- Sec. 2. Section 11, Chapter 5, Laws of 1905, regarding fees to be paid to insurance department, amended. Insurance companies to pay annually a per cent. on gross amount of premiums received.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 9 of an Act entitled "An Act to establish an Insurance Department in the Territory of New Mexico and to regulate insurance companies doing business therein," being House Bill No. 73 of the Legislative Assembly of the Territory of New Mexico, approved February 9, 1905, be and the same hereby is amended by striking out the word "commissioner" wherever it appears in said section and inserting in lieu thereof the word "superintendent."

Sec. 2. That the second sentence of Section 11 of said act be and the same hereby is amended so as to read as follows: "All insurance companies, partnerships or associations engaged in the transaction of the business of insurance in this territory shall annually on or before the first day of February in each year, pay to the superintendent of insurance two per centum on the gross amount of premiums received or written within this territory during the year ending the previous 31st day of December; and insurance companies shall be subject to no other taxation than herein provided except upon real estate."

Sec. 3. This act shall be in full force and effect from and after its passage.

CHAPTER 71.

AN ACT RELATING TO THE ANNUAL SETTLEMENT OF THE TERRITORIAL TREASURER. C. B. No. 100; Approved March 14, 1905.

CONTENTS.

- Sec. 1. Section 401, Compiled Laws of 1897, regarding the listing of paid warrants, amended. Territorial treasurer to make out list of warrants. Section 2605, Compiled Laws of 1897, regarding the publishing of quarterly statements, amended. Treasurer to publish quarterly statement.
- Sec. 2. Section 403, Compiled Laws of 1897, relating to the burning of coupons and bonds, amended. Time fixed for burning coupons and bonds.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Amend Section 401, Compiled Laws of 1897, by striking out the words "auditor of accounts" in the seventh line and inserting in lieu thereof the words "territorial treasurer;" and Section 2605 of the Compiled Laws of 1897 by striking out the word "auditor" wherever the same appears in said section.

Sec. 2. Amend Section 403, Compiled Laws of 1897, by striking out the words "15th and 20th of November" in the first line and inserting in lieu thereof the words "1st and 15th of December."

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in force and effect on and after its passage.

CHAPTER 72.

AN ACT ENTITLED AN ACT TO AID TERRITORIAL INSTITUTIONS TO ERECT BUILDINGS AND OTHER PERMANENT IMPROVEMENTS. C. B. No. 78; Approved March 14, 1905.

CONTENTS.

- Sec. 1. Territorial institutions authorized to expend funds derived from sale and lease of their lands.
- Sec. 2. Boards of control to make report of expenditures

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The New Mexico College of Agriculture and Mechanic Arts and all other territorial, educational and chari-

table institutions, in New Mexico, are hereby authorized to expend the funds derived from the sale and lease of their lands, or so much thereof as may be necessary which have been or may hereafter be placed to the credit of the respective institutions, for buildings, equipment and other permanent improvements.

Sec. 2. The boards of regents or other boards of control of said institutions are hereby authorized to expend said moneys as herein provided for said purposes and said boards shall make a full and complete report of the expenditures which they may make under the provisions of this act, giving amount and purpose for which expended, to the governor of the Territory of New Mexico.

Sec. 3. This act shall take effect and be in force from and after its passage.

CHAPTER 73.

AN ACT TO AUTHORIZE THE TERRITORIAL BOARD OF EDUCATION TO ISSUE CERTIFICATES TO NORMAL INSTITUTE CONDUCTORS, TO HARMONIZE THE SCHOOL LAW AND FOR OTHER PURPOSES. *A. C. S. for H.B. No. 41; Approved March 14, 1905*

CONTENTS.

- Sec. 1. Territorial board of education to issue teachers' certificates. *Provisos.*
- Sec. 2. Section 1, Chapter 120, Laws of 1903, regarding the disbursement of funds for county institutes, amended. Amount to be raised by counties of third and fourth classes.
- Sec. 3. Section 2, Chapter 27, Laws of 1901, relating to teachers' examinations, amended. Time of holding examinations.
- Sec. 4. When temporary permits to teach may be issued.
- Sec. 5. Qualifications required of conductors for normal institutes.
- Sec. 6. Section 3, Chapter 119, Laws of 1903, regarding the granting of third class certificates, amended. "September" inserted in lieu of "October."

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The territorial board of education is hereby authorized to issue territorial teachers' certificates to persons whom it may deem qualified by reason of their moral character, academic scholarship, knowledge of the theory and art of teaching, and actual practice in teaching. The certificates shall remain in force from and after their issue: *Provided*, No certificate shall be granted for not less than five years: *And Provided, Further*, The lowest qualifications for such certificates shall be equal, in respect to moral character, academic scholarship, knowledge of the theory and art of teaching, and actual

practice in teaching to that required of those who complete full professional course in either the New Mexico Normal School or the Normal University. Holders of these certificates who possess a certificate of attendance upon some county or city normal institute or summer school, as already provided by law, shall be entitled without further examination, to teach in any of the public schools of New Mexico for the period of time designated therein.

Sec. 2. The first sentence in Section 1 of Chapter 120 of the Session Laws of 1903 of the Territory of New Mexico, entitled, "An Act to regulate county institutes and for other purposes," is hereby amended so as to read after the word "purpose," in the sixth line thereof, "and in counties of the third and fourth class not more than fifty dollars for such purpose."

Sec. 3. The fourth line of Section 2, Chapter 27, of the Session Laws of 1901 of the Territory of New Mexico, entitled "An Act to amend certain provisions of the law relating to public schools," is hereby amended by striking out the word "four" and in the same section, in line ten, by striking out the word "in August and November" and inserting in lieu thereof the words "before the close of the Normal Institute" and in the same section, in line fifty-eight, by striking out the words "or towns."

Sec. 4. The superintendent of public instruction is hereby authorized to issue, pending the regular examination of teachers, temporary permits to teach in the public schools of the territory to persons holding certificates from educational institutions of good standing in any state or in this territory, or whose credentials as to ability and experience in teaching, properly certified to, are deemed sufficient to meet the requirements of the law, and such temporary permit shall expire upon the first day of the next succeeding examination of teachers, and county school superintendents shall have like authority in their respective counties, and certificates so issued by county school superintendents shall be good only in the county where issued and shall expire at the next examination of teachers in said county.

Sec. 5. Any person of good moral character who is entitled to and possesses a certificate of the first-class as a teacher, may be chosen and appointed by the superintendent of schools of the different counties in the territory as conductor for the Normal Institute in their respective counties.

Sec. 6. The eleventh line of Section 3, Chapter 119, of the Session Laws of 1903 entitled 'An Act to harmonize and

strengthen the existing school laws, etc.," is hereby amended by striking out the words "September and October" and inserting in place thereof the word "January."

Sec. 7. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in full force sixty days from and after its passage and approval.

CHAPTER 74.

AN ACT TO VALIDATE AND LEGALIZE INDEBTEDNESS HERETOFORE INCURRED BY BOARDS OF EDUCATION AND BOARDS OF SCHOOL DIRECTORS IN EXCESS OF THE CURRENT INCOME OF SUCH BOARDS, AND TO AUTHORIZE THE ISSUE OF BONDS TO PAY SUCH INDEBTEDNESS. C. B. No. 118; Approved March 14, 1905.

CONTENTS.

- Sec. 1. Debts contracted by school boards made binding.
Sec. 2. School boards to issue bonds covering indebtedness.
Sec. 3. Denomination of bonds. Rate of interest. Maturity. How signed.
Sec. 4. County commissioners to levy tax to pay interest on bonds. Redemption. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. All debts heretofore contracted by boards of education or boards of school directors for the purpose of paying the actual and necessary expenses of maintaining the schools are hereby validated and made binding.

Sec. 2. It shall be the duty of all such boards on or before August 1, 1905, to ascertain the amount of their respective indebtedness, and upon due proof of the same to issue coupon bonds to each holder of a claim in an amount sufficient to cover such claim, and to deliver such bonds to their respective creditors in exchange for other evidences of indebtedness.

Sec. 3. Such bonds shall be issued in denominations of one hundred dollars each, shall be numbered consecutively, shall bear interest at the rate of six per cent. per annum, interest payable semi-annually on the first day of January and July of each year, shall mature at the option of the board issuing the same in ten years after the date thereof and shall be absolutely due and payable in twenty years after the date thereof, and shall be issued and delivered not later than January 1, 1906,

and shall be signed by the chairman of the board, issuing the same, and shall be countersigned by the secretary or clerk thereof.

Sec. 4. Boards of education and boards of school directors issuing bonds under this act shall notify the boards of county commissioners on or before the first Monday of May in each year of the amount required to pay the interest on such bonds, and the county commissioners shall, at the time of making the levy for other taxes levy a tax sufficient to pay the annual interest on such bonds; and after the expiration of ten years from the date of issuing said bonds, the boards of county commissioners shall annually levy a tax sufficient to produce a sum equal to not less than ten nor more than twenty per cent. of the total amount of such bonded indebtedness, and said bonds shall be redeemed from time to time as the moneys come into the hands of the treasurers of said boards issuing the same for that purpose: *Provided*, That the levy herein provided for to pay interest on such bonds and to create a sinking fund for the redemption thereof shall be made only on property within the district issuing such bonds.

Sec. 5. This act shall take effect and be in force from and after the expiration of thirty days after its passage and approval, and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 75.

AN ACT TO ISSUE BONDS FOR THE TERRITORY OF NEW MEXICO FOR THE ERECTION OF ADDITIONAL BUILDINGS AND INCREASING THE CAPACITY OF THE TERRITORIAL INSANE ASYLUM. *C. R. No. 121; Approved March 15, 1905.*

CONTENTS.

- Sec. 1. Creation of bonded indebtedness account of New Mexico Insane Asylum. Maturity of bonds. Rate of interest. Denomination. How payable.
- Sec. 2. Signatures and attestation required on bonds. Numbering and registration and other requirements. Title—Territorial Insane Asylum Bonds.
- Sec. 3. Levy to be made for annual interest.
- Sec. 4. Territorial insane asylum bond sinking fund.
- Sec. 5. Investment of sinking fund. Territorial treasurer to report on condition of sinking fund.
- Sec. 6. Cancellation of bonds.
- Sec. 7. Proceeds of bond sale to be deposited in territorial treasury. How proceeds to be drawn out.

Be it enacted by the Legislative Assembly of the Territory of New Mexico

Section 1. That for the purpose of enabling the board of
of the New Mexico Insane Asylum, maintained for

the indigent insane, to erect necessary additional buildings and improvements in order that the indigent insane in the Territory of New Mexico may be properly cared for, there is hereby created a bonded indebtedness of the Territory of New Mexico to the amount of one hundred and five thousand (\$105,000) dollars, the bonds representing said indebtedness to become due and payable in thirty years from the date of their issue, and to bear interest at the rate of four per cent. per annum, payable semi-annually on the first days of January and July in each year after the issuance of said bonds, at such place as may be designated in said bonds and the coupons thereto attached. Said bonds shall consist of one hundred and five bonds of the denomination of one thousand (\$1,000) dollars each, and shall be payable thirty years after date; and said bonds shall be sold at not less than par value. The proceeds thereof shall be used for the purposes hereinbefore specified by the said board of directors for the said insane asylum. And said bonds, together with the coupons thereof, shall express upon their face that they are payable in gold coin of the United States of the present weight and fineness.

Sec. 2. The said bonds issued under this act shall be signed by the governor of the territory, countersigned by the territorial treasurer and attested by the secretary of the territory, who shall affix the great seal of the territory to each bond. They shall be otherwise in the usual form of bonds issued by the territory; such form to be determined and adopted by the officers signing and attesting the same. They shall be numbered and registered in a book kept for that purpose by the territorial treasurer, in the order in which they are issued; and each bond shall state upon its face the amount for which the same is issued, to whom issued, for what purpose issued, the date of issuance and the title of this act under which the issue is made. The bonds issued under this act shall be known as Territorial Insane Asylum Bonds.

Sec. 3. Whenever said bonds are issued as provided for in this act, provision in addition to the usual levy for interest upon the bonded indebtedness is made shall also be made for such additional amount as may be necessary to pay the interest upon said bonds, in the same manner as provision is made for the levy of sufficient taxes to pay the interest upon the present outstanding bonded indebtedness of the territory, for the period of twenty years from and after the date of the issuance of said bonds.

Sec. 4. After the expiration of twenty years from the date of the issuance of said bonds and in the first fiscal year there-

after, such amount in addition to what is necessary to pay the interest upon said bonds, as provided in the last preceding section, necessary to create a sinking fund for the redemption of said bonds at the date of their maturity, thirty years from the date of their issuance, shall be levied, and collected upon the property subject to taxation in said territory, annually for the ensuing ten years, so that the sum so collected in each year will be sufficient to pay the current interest upon said bonds and produce a sufficient sinking fund to pay off and discharge said bonds at maturity. And said sinking fund shall be called the Territorial Insane Asylum Bond Sinking Fund, and the taxes hereby authorized shall be levied and collected in the same manner and at the same time that other taxes are levied and collected for the payment of interest upon the territorial bonded indebtedness and shall be paid into the territorial treasury in cash only, and the proceeds thereof shall be kept by the territorial treasurer as a special and distinct fund, to be used only in the payment of the interest on and for the redemption of said bonds or for their purchase, as hereinafter provided, and for no other purpose whatsoever.

Sec. 5. Said sinking fund may be, if the legislative assembly sees fit by law to so direct, invested in bonds of the United States, or may be applied to the purchase on behalf of the territory of such bonds of the Territorial Insane Asylum Bonds as may be obtainable and as in the judgment of the legislative assembly may best serve the interests of the territory. The treasurer of the territory shall in his annual report to the governor of the territory show a full and complete statement of the condition of the said sinking fund when it begins to accumulate, the amount of the same and how it is invested.

Sec. 6. When any of the bonds issued under this act are purchased or redeemed, it shall be the duty of the territorial treasurer, to cancel the same, so that they can be plainly identified, and cause a record of such cancellation to be made upon the register books in his office and in the office of the territorial auditor.

Sec. 7. The proceeds of the said bonds, when sold, shall be deposited in the territorial treasury, to be drawn out by the board of directors of the said territorial insane asylum during the two fiscal years immediately following such sale, or paid to the said board of directors of the said territorial insane asylum to be expended for the purposes hereinbefore provided by them as the said money may be needed for that purpose, upon requisition or upon warrant, in the same way in which funds

raised by taxation are paid to said board of directors for the maintenance of the said territorial insane asylum.

Sec. 8. This act shall take effect and be in force from and after its passage.

CHAPTER 76.

AN ACT TO AMEND SECTION 2, OF CHAPTER 63, OF THE SESSION LAWS OF 1899, ENTITLED "AN ACT TO AMEND SECTIONS 2937 AND 2938, OF THE COMPILED LAWS OF 1897. C. B. No. 83; *Approved March 15, 1905.*

CONTENTS.

Sec. 1. Section 2, Chapter 63, Laws of 1899, regarding the time of bringing actions against persons holding lands by adverse possession, amended. Definition of "adverse possession."

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 2 of Chapter 63 of the Session Laws of 1899, approved March 16, 1899, be and the same hereby is amended to read as follows:

"Section 2. That Section 2938 of the Compiled Laws of 1897, is amended so as to read as follows:

"Section 2938. No person or persons, nor their children or heirs, shall have, sue or maintain any action or suit, either in law or equity, for any lands, tenements or hereditaments, against any one having adverse possession of the same continuously in good faith, under color of title, but within ten years next after his, her or their right to commence, have or maintain such suit shall have come, fallen or accrued, and all suits, either in law or equity, for the recovery of any lands, tenements or hereditaments so held, shall be commenced within ten years next after the cause of action therefor has accrued: *Provided*, If any person entitled to commence or prosecute such suit or action is or shall be, at the time the cause of action therefor first accrued, imprisoned, of unsound mind, or under the age of twenty-one years, then the time for commencing such action shall in favor of such persons be extended so that they shall have one year after the termination of such disability to commence such action; but no cumulative disability shall prevent the bar of the above limitation, and this proviso shall only

apply to those disabilities which existed when the cause of action first accrued and to no other. 'Adverse possession' is defined to be an actual and visible appropriation of land commenced and continued under a color of title and claim of right inconsistent with and hostile to the claim of another; and in no case must 'adverse possession' be considered established within the meaning of the law, unless the party claiming adverse possession, his predecessors or grantors, have for the period mentioned in this action continuously paid all the taxes territorial, county and municipal, which during that period have been levied upon land land or interest claimed, whether assessed in his name or that of another."

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 77.

AN ACT RELATIVE TO BOUNTIES ON WILD ANIMALS, *A. C. B.* *No. 68; Approved March 15, 1905.*

CONTENTS.

Sec. 1. Section 1, Chapter 80, Laws of 1903, regarding tax on certain domestic animals to raise money to pay bounty on wild animals, repealed. Amount of tax levy. Bounties to be paid. Provisos.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1 of Chapter 80 of the Laws of 1903 be and the same is hereby repealed and the following substituted in lieu thereof:

The several boards of county commissioners are hereby authorized and directed to levy annually a special tax on all horses, burros, mules, bovine cattle, sheep and goats that may be found in their respective counties to any amount not exceeding eight mills on the dollar on the assessed value thereof, for the purpose of raising money with which to pay bounties for the killing of wild animals. Such special tax shall be levied only for the years 1905 and 1906 and thereafter not to exceed four mills for any one year shall be levied and collected, in the manner provided by law for the collection of other county taxes, and paid into the county treasury as a "Wild Animal Bounty Fund" to be used exclusively for the payment of bounties for the killing of wild animals, at the following rates:

For each coyote, wild cat or lynx, one dollar; for each gray wolf or lobo and bear twenty dollars; panther or mountain lion ten dollars: *Provided, However,* That no application for wild animal bounty shall be approved or paid under the provisions of this act unless there are funds in the "Wild Animal Bounty Fund" with which to pay the same: *Provided, Further,* That each applicant must present the entire skin of each gray wolf, lobo, panther, bear or mountain lion to the probate clerk, and ex-officio clerk of the board of county commissioners, as now provided by law, to be properly cancelled before his claim will be filed.

Said skins to be cancelled in such manner as not to destroy their marketable value, and when cancelled to be returned to the owner.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in full force from and after its passage.

CHAPTER 78.

AN ACT AMENDING CHAPTER FIFTY-TWO OF THE ACTS OF THE THIRTY-FIFTH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, ENTITLED AN ACT RELATING TO TRUST COMPANIES, APPROVED MARCH 12, 1903. *C. B. No. 113; Approved March 15, 1905.*

CONTENTS.

- Sec. 1. Sub-section 8, Section 3, Chapter 52, Laws of 1903, regarding the loaning of money by trust companies, amended. Trust companies may loan money on personal security.
- Sec. 2. Section 22, Chapter 52, Laws of 1903, regarding articles of agreement of building and loan associations, amended. *Proviso.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That sub-section 8 of Section 3 of Chapter 52 of the Acts of the Thirty-fifth Legislative Assembly of the Territory of New Mexico, entitled "An Act relating to trust companies," approved March 12, 1903, be and the same is hereby amended by inserting after the words "real estate" and before the words "and collateral security" in the first line of said sub-section, the word "personal" preceded by a comma.

Sec. 2. That Section 22 of said act be and the same is hereby amended by striking out the words and figures "two hun-

dred and fifty thousand dollars (\$250,000.00)," appearing in the latter part of said section after the words "shall be" and before the words "or more" and after the words "in capital below" and inserting in lieu thereof the words and figures, "one hundred thousand dollars, (\$100,000.00)."

Sec. 3. That all acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in force thirty days after its passage.

CHAPTER 79.

AN ACT TO REGULATE THE FORMATION AND GOVERNMENT OF CORPORATIONS FOR MINING, MANUFACTURING, INDUSTRIAL AND OTHER PURSUITS. C. B. No. 58; Approved March 15, 1905.

CONTENTS.

- ARTICLE 1.—POWERS, Secs. 1-4 Inclusive.**
ARTICLE 2.—FORMATION, CONSTITUTION, ALTERATION, DISSOLUTION, Secs. 5-36 Inclusive.
ARTICLE 3.—ELECTIONS; STOCKHOLDERS' MEETINGS, Secs. 37-52 Inclusive.
ARTICLE 4.—DIVIDENDS; PAYMENT OF CAPITAL STOCK, Secs. 53-59 Inclusive.
ARTICLE 5.—WINDING UP, Secs. 60-67 Inclusive.
ARTICLE 6.—EXECUTION AGAINST CORPORATION, Secs. 68-69, Inclusive.
ARTICLE 7.—INSOLVENCY, Secs. 70-92 Inclusive.
ARTICLE 8.—SERVICE OF PROCESS, Secs. 93-95 Inclusive.
ARTICLE 9.—REMEDIES AGAINST OFFICERS AND STOCKHOLDERS, Secs. 96-98 Inclusive.
ARTICLE 10.—FOREIGN CORPORATIONS, Secs. 99-108 Inclusive.
ARTICLE 11.—MERGER OF CORPORATION, Secs. 109-115 Inclusive.
ARTICLE 12.—LOST CERTIFICATES OF STOCK, Secs. 116-118 Inclusive.
ARTICLE 13.—FEES ON FILING CERTIFICATES; SUNDRY PROVISIONS, Secs. 119-136 Inclusive.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Corporations for any and all the purposes above specified or intended or for any purpose for which corporations are or shall hereafter be authorized by any general incorporation law of this territory shall be organized and governed by this act.

ARTICLE 1.—POWERS.**Sec. 1.—Powers In General.**

Every corporation shall have power:

I. To have succession, by its corporate name, for the period limited in its charter or certificate of incorporation, but not to exceed 50 years;

II. To sue and be sued in any court of law or equity;

III. To make and use a common seal, and alter the same at pleasure;

IV. To hold, purchase and convey such real and personal estate as the purposes of the corporation shall require, and all other real estate which shall have been *bona fide* conveyed or mortgaged to the said corporation by way of security, or in satisfaction of debts, or purchased at sales upon judgment or decree obtained for such debts; and to mortgage any such real and personal estate with its franchises; the power to hold real and personal estate shall include the power to take the same by devise or bequest;

V. To appoint such officers and agents as the business of the corporation shall require, and to allow them suitable compensation;

VI. To make by-laws fixing and altering the number of its directors, and providing for the management of its property, the regulation and government of its affairs, and the transfer of its stock, with penalties for the breach thereof not exceeding twenty dollars;

VII. To wind up and dissolve itself, or be wound up and dissolved in manner hereafter mentioned.

Sec. 2.—Powers Additional.

In addition to the powers enumerated in the first section of this act and the powers specified in its charter or in the act or certificate under which it was incorporated, every corporation, its officers, directors and stockholders, shall possess and exercise all the powers and privileges contained in this act, so far as the same are necessary or convenient to the attainment of the objects set forth in such charter or certificate of incorporation; and shall be governed by the provisions and be subject to the restrictions and liabilities in this act contained, so far as the same are appropriate to and not inconsistent with such charter or the act under which such corporation was formed; and no corporation shall possess or exercise any other corporate power, except such incidental powers as shall be necessary to the exercise of the powers so given.

Sec. 3.—Charters Subject to Repeal.

The charter of any incorporation, or any supplement thereto or amendment thereof, incorporated under this act, shall be subject to alteration, suspension and repeal or dissolution by any subsequent legislation legally enacted by the legislative assembly of the territory: *Provided*, That such alteration, suspension, repeal or dissolution shall not impair or injuriously affect the rights or interests of persons who may have acquired property, or invested money, under such corporation, or in its stock, bonds or other obligations or securities, upon the faith of such charter.

Sec. 4.—This Act May Be Amended or Repealed.

This act may also be amended or repealed, at the pleasure of the legislature, and every corporation created under this act shall be bound by such amendment; but such amendment or repeal shall not take away or impair any remedy against any such corporation or its officers for any liability which shall have been previously incurred; this act and all amendments thereof shall be a part of the charter of every corporation heretofore or hereafter formed hereunder, except so far as the same are inapplicable and inappropriate to the objects of such corporation, but this section shall also be subject to the proviso contained in Section 3 of this act.

ARTICLE 2.—FORMATION, CONSTITUTION, ALTERATION, DISSOLUTION.**Sec. —Purposes For Which Corporations May Be Formed.**

Upon executing, recording and filing a certificate pursuant to all the provisions of this act, three or more persons may become a corporation for any lawful purpose or purposes whatever, except corporations for the construction and operation of railroads, telegraph lines, express companies, savings banks, banks, building and loan associations, insurance, surety, and irrigation companies; and this act shall only apply to corporations exercised for such purposes to the extent and as hereinafter provided by section 133; it shall, however, be lawful to form a company hereunder for the purpose of constructing, maintaining and operating railroads, telegraph lines, and express companies, or for any of the other purposes aforesaid outside of this territory.

Sec. 6.—May Conduct Business In Other Jurisdictions.

Any corporation of this territory may conduct business in other states or in foreign countries and have one or more offices out of this territory, and may hold, purchase mortgage,

and convey real and personal property out of this territory: *Provided*, Such powers are included within the objects set forth in its certificate of incorporation.

Sec. 7.—Form of Certificate.

The certificate of incorporation shall be signed in person by each person or by attorney in fact, by all of the subscribers to the capital stock named therein, and shall set forth:

I. The name of the corporation; no name shall be assumed already in use by another existing corporation of this territory, or so nearly similar thereto as to lead to uncertainty or confusion.

II. The location (town or city, street and number, if number there be) of its principal office in this territory.

III. The object or objects for which the corporation is formed.

IV. The amount of the total authorized capital stock of the corporation, which shall be not less than three thousand dollars, the number of shares into which the same is divided and the par value of each share; the amount of the capital stock with which it will commence business, which shall not be less than two thousand dollars, and if there be more than one class of stock created by the certificate of incorporation, a description of the different classes, with the terms on which the respective classes of stock are created.

V. The names and postoffice addresses of the incorporators and the number of shares subscribed for by each; the aggregate of such subscriptions shall be the amount of capital stock with which the company will commence business, and shall be at least two thousand dollars.

VI. The period, if any, limited for the duration of the company.

VII. The certificate of incorporation may also contain any provision which the incorporators may choose to insert for the regulation of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the powers of the corporation, the directors and the stockholders, or any class or classes of stockholders: *Provided*, Such provision be not inconsistent with this act.

Sec. 8.—Authentication and Record of Certificate. Copy Evidence.

The certificate of incorporation shall be proved or acknowledged as required for deeds of real estate; shall be filed in the office of the secretary of the territory, and a copy thereof, duly certified by the secretary of the territory, shall be recorded in a book to be kept for that purpose in the office of the

recorder of the county where the principal office of such corporation in this territory shall be established. Said certificate, or a copy thereof, duly certified by the secretary of the territory or recorder of deeds of the county where the same shall be recorded, shall be evidence in all courts and places.

Sec. 9.—Corporate Existence Begins on Filing Certificate.

Upon making the certificate of incorporation and causing the same to be filed and recorded as aforesaid, the persons so associating, their successors and assigns, shall from the date of such filing be and constitute a body corporate by the name set forth in said certificate subject to dissolution as in this act elsewhere provided.

Sec. 10.—By-Laws.

The power to make and alter by-laws shall be in the stockholders, but any corporation may, in the certificate of incorporation, confer that power upon the directors; by-laws made by the directors under power so conferred may be altered or repealed by the stockholders.

Sec. 11.—Management.

The business of every corporation shall be managed by its directors, who shall respectively be shareholders therein, they shall be not less than three in number, and, except as hereinafter provided, they shall be chosen annually by the stockholders at the time and place provided in the by-laws, and shall hold office for one year and until others are chosen and qualified in their stead; but by so providing in its certificate of incorporation, any corporation organized under this act may classify its directors in respect to the time for which they shall severally hold office, the several classes to be elected for different terms: *Provided*, That no class shall be elected for a shorter period than one year or for a longer period than five years, and that the term of office of at least one class shall expire in each year; any corporation which shall have more than one kind of stock, may, by so providing in its certificate of incorporation, confer the right to choose the directors of any class upon the stockholders of any class or classes, to the exclusion of the others; one director of every corporation of this territory shall be an actual resident of this territory, and it shall not be necessary for more than one director to be resident of this territory, notwithstanding the provisions of any previous law; and the board of directors may by authority conferred under its by-laws or by its charter appoint an executive committee to act for and in the name of its said board of directors.

Sec. 12.—Principal Officers.

Every corporation organized under this act shall have a president, secretary and treasurer, who shall be chosen either by the directors or stockholders, as the by-laws may direct, and shall hold their offices until others are chosen and qualified in their stead; the president shall be chosen from among the directors; the secretary shall be sworn to the faithful discharge of his duty, and shall record all the votes of the corporation and directors in a book to be kept for that purpose, and perform such other duties as shall be assigned to him; the treasurer shall give bond in such sum, and with such surety or sureties, as shall be required by the by-laws, for the faithful discharge of his duty.

Sec. 13.—Other Officers and Agents.

The corporation may have such other officers, agents and factors, who shall be chosen in such manner and hold their office for such terms as may be prescribed by the by-laws.

Sec. 14.—Filling of Vacancies.

Any vacancy occurring among the directors or in the office of president, secretary and treasurer by death, resignation or removal or otherwise, shall be filled in the manner provided for in the by-laws; in the absence of such provision such vacancies shall be filled by the board of directors.

Sec. 15.—First Meeting of Corporation.

The first meeting of every corporation shall be called by a notice, signed by a majority of the incorporators, designating the time, place and purpose of the meeting, which notice shall be published at least two weeks before the meeting in some newspaper of the county where the corporation is established; or said first meeting may be called without publication 'if two days' notice be personally served on all the incorporators; or if all the incorporators shall in writing waive notice and fix a time and place of meeting, no notice or publication shall be required; whenever under any of the provisions of this act, or any amendment thereto, a corporation is authorized to take any action after notice to its members or stockholders, or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if such action be authorized or approved and such requirements be waived, in writing, by every member or stockholder of such corporation or by his attorney thereunto author-

ized; and stockholders may be represented at such meeting by attorney or proxy for them authorized to act.

Sec. 16.—First Directors May Be Named In Certificate.

The directors who are to act as such for the first three months after the filing of the certificate of incorporation may be named therein; in such case it shall be not be necessary to call a first meeting of the corporation as provided in the preceding section; and any subsequent meeting of stockholders for the purpose of electing their successors or for the transaction of such other business as may be transacted at a stockholders' meeting may be called in the same manner as annual meetings of the stockholders are herein authorized to be called.

Sec. 17.—Stockholders May Vote By Proxy; Quorum, Etc.

Absent stockholders may vote at all meetings by proxy in writing; and every corporation may determine by its certificate of incorporation or by-laws the manner of calling and conducting all meetings, what number of shares shall entitle the stockholders to one or more votes, what number of stockholders shall attend, either in person or by proxy, or what number of shares or amount of interest shall be represented at any meeting in order to constitute a quorum; and may by its original or amended certificate of incorporation provide that any action which now requires the consent of the holders of two-thirds of the stock at any meeting after notice to them given, or requires their consent in writing to be filed, may be taken upon the consent of and the consent given and filed by the holders of two-thirds of the stock of each class represented at such meeting in person or by proxy: *Provided*, In no case shall more than a majority of shares or amount of interest be required to be represented at any meeting in order to constitute a quorum; if the quorum shall not be so determined by the corporation, a majority in interest of the stockholders, represented either in person or by proxy, shall constitute a quorum.

Sec. 18.—Preferred and Other Special Stocks.

Every corporation organized under this act shall have power to create two or more kinds of stock, of such classes, with such designations, preferences and voting powers or restrictions, or qualifications thereof as shall be stated and expressed in the certificate of incorporation, or in any certificate of amendment thereof, and the power to increase or decrease the

stock as in this act elsewhere provided shall apply to all or any of the classes of stock; but at no time shall the total amount of the preferred stocks issued and outstanding exceed two-thirds of the capital stock paid for in cash or property, and such preferred stock, may, if desired, be made subject to redemption at any fixed time after the issue thereof, at a price not less than par, and the holders thereof shall be entitled to receive, and the corporation shall be bound to pay thereon, dividends at such rates and on such conditions as shall be stated in the original or amended certificate of incorporation, not exceeding ten per cent. per annum, payable quarterly, half yearly or yearly, and such dividends may be made payable before any dividends shall be set apart or paid on the common stock, and such dividends may be made cumulative: *Provided*, The corporation shall set apart or pay the said dividends to the holders of non-cumulative preferred stock before any dividend shall be paid on the common stock; and in no event shall a holder of preferred stock be personally liable for the debts of the corporation; but in case of insolvency its debts or other liabilities shall be paid in preference to the preferred stock; the terms "general stock" and "common stock" are synonymous.

Sec. 19.—Conversion of Preferred Stock Into Bonds; Issue of Bonds Convertible Into Common Stock.

With the consent of two-thirds in interest of each class of the stockholders present in person or by proxy at a meeting called in the manner provided in section 30, every corporation organized under this act that shall have issued preferred stock, entitling the holders thereof to receive dividends at a rate exceeding five per centum per annum, and that shall have continuously declared and paid dividends at such rate, on such preferred stock for the period of at least one year next preceding the meeting, and whose floating or unfounded debt at the time of the stockholders' meeting shall, in the certificate thereof filed with the secretary of the territory, be certified not to exceed ten per centum of the par amount of the preferred stock then outstanding, and whose assets at such time, after deducting the amount of its indebtedness, shall be certified in the judgment of the officers making such certificate to be at least equal to the amount of preferred stock issued and outstanding, may, with the consent of the holder of any such preferred stock, redeem and retire the preferred stock of such holder, out of the bonds or out of the proceeds of bonds of the corporation, bearing interest at a rate not exceeding six per

centum per annum, the principal of such bonds being made payable at a date not less than ten years from the date thereof; every corporation organized under this act may from time to time, in the manner above provided, issue bonds, which, if therein so declared, shall be convertible at par at the option of the holder, into fully paid common stock of the corporation at par, within any period therein prescribed not less than two years from the issue thereof; and in such case the board of directors may authorize the issue of the common stock into which such bonds, by their terms, shall be convertible.

Sec. 20.—Stock Certificates.

Every stockholder shall have a certificate, signed by the president and secretary, certifying the number of shares owned by him in such corporation.

Sec. 21.—Transfer of Shares.

The shares of stock in every corporation shall be personal property, and shall be transferable on the books of the corporation in such manner and under such regulations as the by-laws provide; and whenever any transfer of shares shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer.

Sec. 22.—Stockholders Liable Until Subscriptions Are Fully Paid.

Where the whole capital stock of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy its debts and obligations, each shareholder shall be bound to pay on each share held by him the sum necessary to complete the amount of such share, as fixed by the charter of the corporation, or such proportion of that sum as shall be required to satisfy such debts and obligations.

Sec. 23.—When Stockholders Not Liable.

No stockholders liability for unpaid stock shall attach to any stock issued by any corporation under the terms of this act: *Provided*, That at the time of filing the certificate a separate certificate shall be signed and executed in the same manner that the certificate of incorporation is filed, declaring that there shall be no stockholders liability on account of any stock issued, and shall be filed in the office of the secretary of the territory together with the certificate of incorporation, and likewise certified and recorded in the office of the county recorder; and the certificate of incorporation, together with said declaration of non-liability of stockholders, shall be published as hereinafter provided. This section of this act shall not

apply to any of the provisions for the issuance of stock and fixing liability and the means of enforcing liability upon the same contained in any other section of this act but shall be construed as a separate and distinct provision and as creating a separate and distinct class of corporations, and stockholders of such corporations shall only be liable for the amount of the capital certified to have actually been paid in property or cash at the time of the commencement of business; and this section may also be made applicable to railroad, telegraph and express companies incorporated under the railroad act.

Sec. 24.—Directors May Make Assessments.

The directors of every corporation may, from time to time, make assessments upon the shares of stock subscribed for, and subject to assessment not exceeding, in the whole, the par value thereof; and the sums so assessed shall be paid to the treasurer at such times and by such installments as the directors shall direct, said directors having given thirty days' notice of the assessment and of the time and place of payment either personally or by mail or by publication in a newspaper published in the county where the corporation is established.

Sec. 25.—Shares of Delinquent Owner to Be Sold.

If the owner of any share shall neglect to pay any sum assessed thereon for thirty days after the time appointed for payment, the treasurer when ordered by the board of directors, shall sell, at public auction, such number of shares of the delinquent owner as will pay all assessments then due from him, with interest, and all necessary incidental charges, and shall transfer the shares sold to the purchaser, who shall be entitled to a certificate therefor.

Sec. 26.—Treasurer to Give Notice of Sale.

The treasurer shall give notice of the time and place appointed for the sale, and of the sum due on each share, by advertising the same three weeks successively, once in each week, before the sale, in some newspaper published in the county where the corporation is established, and by mailing a notice thereof to the delinquent stockholder, if he knows his postoffice address.

Sec. 27.—Certificate Upon Payment of Capital.

The president and secretary, or treasurer, upon payment of the capital stock, and of every increase thereof, shall make a certificate, stating the amount of capital so paid, and whether paid in cash or by purchase of property, stating also the total

amount of capital stock, if any, previously paid and reported; which certificate shall be signed and sworn to by the president and secretary or treasurer, and they shall, within ten days after such payment, cause the certificate to be filed in the office of the secretary of the territory.

Sec. 28.—Penalty For Failure.

If any of said officers shall neglect or refuse to perform the duties required of them in the preceding section for thirty days after written request so to do by a creditor or a stockholder of the corporation, they shall be jointly and severally liable for all its debts contracted before the filing of such certificate.

Sec. 29.—Incorporators May Amend Certificate of Incorporation Before Payment of Capital.

It shall be lawful for the incorporators of any corporation, before the payment of any part of its capital to file with the secretary of the territory, and record a certified copy thereof in the office of the recorder of the county in which its principal place of business is located, an amended certificate or an amendment to the original certificate duly signed by the incorporators named in the original certificate of incorporation and duly acknowledged or proved as required for certificates of incorporation under this act, modifying, changing or altering its original certificate of incorporation, in whole or in part, which amended certificate or the original certificate together with the said amendment thereto shall take the place of the original certificate of incorporation, and shall be deemed to have been filed and recorded on the date of the filing and recording of the original certificate: *Provided, However, That* nothing herein shall permit the insertion of any matter not in conformity with this act: *And Provided, However, That* this act shall not in any manner affect any proceedings pending in any court.

Sec. 30.—Amendments and Changes After Organization.

Every corporation organized under this act may change the nature of its business, change its name, increase its capital stock, decrease its capital stock, change the location of its principal office in this territory, extend its corporate existence, create one or more classes of preferred stock, and make such other amendment, change or alteration as may be desired, in manner following: The board of directors shall pass a resolution declaring that such change or alteration is advisable and calling a meeting of the stockholders to take action thereon; the meeting shall be held upon such notice as the by-laws provide, and in the absence of such provision, upon twenty days'

notice, given personally or by mail; if two-thirds in interest of each class of the stockholders having voting powers, represented at such meeting, shall vote in favor of such amendment, change or alteration, a certificate thereof shall be signed by the president and secretary under the corporate seal, acknowledged or proved as in the case of deeds of real estate, and such certificate, together with the written assent, in person or by proxy, of two-thirds in interest of each class of such stockholders, or the affidavit of the president and secretary that the assent of two-thirds in interest of each class of stockholders was given to such amendment, shall be filed in the office of the recorder of the county in which the principal place of business of such corporation is located and in the office of the secretary of the territory, and upon the filing of the same, the certificate of incorporation shall be deemed to be amended accordingly: *Provided*, That such certificate of amendment, change or alteration shall contain only such provision as it would be lawful and proper to insert in an original certificate of incorporation made at the time of making such amendment, and the certificate of the secretary of the territory that such certificate and assent have been filed in his office shall be taken and accepted as evidence of such change or alteration in all courts and places.

Sec. 31.—Amendments By Corporations Formed Under Other Acts.

Any corporation of this territory, whether organized under any other general act or hereafter organized under any general act, including railroad, telegraph and express companies, building and loan associations, banks and savings banks, trust companies, land and irrigation companies, and other corporations possessing the right to take and condemn lands may increase or decrease its capital stock, change its name, the par value of the shares of its capital stock, or the location of its principal office in or out of this territory, and fix any method of altering its by-laws permitted by this act in the manner prescribed in the foregoing section, and any corporation except corporations exercising the rights of eminent domain, may in the same manner relinquish one or more branches of its business, or extend its business to such branches as might have been inserted in its original certificate of incorporation.

Sec. 32.—Change of Location of Office.

The board of directors of any corporation, organized under the laws of this territory may change the location of the principal office of such corporation within this territory to any other place within this territory by resolutions adopted at a

regular or special meeting of such board, by the votes of at least two-thirds of the members of such board: *Provided*, That no certificate shall be required to be filed of the removal of any office from one point to another in the same town, precinct or city in this territory.

Upon the adoption of a resolution as aforesaid, a copy thereof shall be filed in the office of the secretary of the territory, signed by the president and secretary of such corporation, and sealed with its corporate seal, and a certified copy thereof recorded in the office of the recorder of the county in which its principal place of business is located, as changed.

Sec. 33.—Decrease of Capital How Effected.

The decrease of capital stock as to which there is any personal liability under this act may be effected by retiring or reducing any class of the stock, or by drawing the necessary number of shares by lot for retirement, or by the surrender by every shareholder of his shares, and the issue to him in lieu thereof of a decreased number of shares, or by the purchase at not above par of certain shares for retirement, or by retiring shares owned by the corporation or by reducing the par value of shares; and when any corporation shall decrease the amount of its capital stock hereinbefore provided, the certificate decreasing the same shall be published for three weeks successively, at least once in each week, in a newspaper published in the county in which the principal office of the corporation is located; the first publication to be made within fifteen days after the filing of such certificate, and in default thereof the directors of the corporation shall be jointly and severally liable for all debts of the corporation contracted before the filing of the said certificate, and the stockholders shall also be liable for such sums as they may respectively receive of the amount so reduced: *Provided*, No such decrease of capital stock shall release the liability of any stockholder, whose shares have not been fully paid, for debts of the corporation theretofore contracted, nor effect any reduction of the taxes that may be required to be paid by the charters of corporations incorporated by special acts.

Sec. 34.—Unlawful Reduction of Capital and Unlawful Dividends.

No corporation shall make dividends, except from the surplus or net profits arising from its business, nor divide, withdraw, or in any way pay to the stockholders, or any of them, any part of its capital stock, or reduce its capital stock, except according to this act, and in case of any violation of the provi-

sions of this section, the directors under whose administration the same may happen shall be jointly and severally liable, at any time within six years after paying such dividend, to the corporation and to its creditors, in the event of its dissolution or insolvency, to the full amount of the dividend made or capital stock so divided, withdrawn, paid out or reduced, with interest on the same from the time such liability accrued: *Provided*, That any director who may have been absent when the same was done, or who may have dissented from the act or resolution by which the same was done, may exonerate himself from such liability by causing his dissent to be entered at large on the minutes of the directors, at the time the same was done, or forthwith after he shall have notice of the same, and by causing a true copy of said dissent to be published, within two weeks after the same shall have been so entered, in a newspaper published in the county where the corporation has its principal office.

Sec. 35.—Voluntary Dissolution.

Whenever in the judgment of the board of directors, it shall be deemed advisable and most for the benefit of such corporation that it should be dissolved, the board, within ten days after the adoption of a resolution to that effect by a majority of the whole board at any meeting called for that purpose, of which meeting every director shall have received three days' notice, shall cause a notice of the adoption of such resolution to be mailed to each stockholder residing in the United States, and also beginning within said ten days cause a like notice to be published in a newspaper published in the county wherein the corporation shall have its principal office, at least four weeks successively, once a week, next preceding the time appointed for the same, of a meeting of its stockholders to be held at the office of the corporation, to take action upon the resolution so adopted by the board of directors, which meeting shall be held between the hours of ten o'clock in the forenoon and three o'clock in the afternoon of the day so named, and which meeting may, on the day so appointed, by a consent of a majority in interest of the stockholders present, be adjourned from time to time for not less than eight days at any one time, of which adjourned meeting notice by advertisement in said newspaper shall be given; and if at any such meeting two-thirds in interest of all the stockholders shall consent that a dissolution shall take place and signify their consent in writing, such consent, together with a list of the name and residences of the directors and officers, certified by the president and the secretary or treasurer, shall be filed in the office

of the secretary of the territory, who, upon being satisfied by due proof that the requirements aforesaid have been complied with, shall issue a certificate that such consent has been filed, and the board of directors shall cause such certificate to be published four weeks successively, at least once a week in a newspaper published in said county; and upon filing in the office of the secretary of the territory of an affidavit that said certificate has been so published, the corporation shall be dissolved, and the board shall proceed to settle up and adjust its business and affairs; whenever all the stockholders shall consent in writing to a dissolution, no meeting, or notice thereof shall be necessary, but on filing said consent in the office of the secretary of the territory he shall forthwith issue a certificate of dissolution, which shall be published as above provided.

Sec. 36.—Incorporators May Dissolve Corporation.

The incorporators named in any certificate of incorporation, before the payment of any of the capital, and before beginning the business for which the corporation was created, may surrender all their corporate rights and franchises, by filing in the office of the secretary of the territory a certificate, verified by oath, that no part of the capital has been paid and such business has not been begun, and surrendering all rights and franchises and thereupon the said corporation shall be dissolved.

ARTICLE 3.—ELECTIONS; STOCKHOLDERS' MEETINGS.

Sec. 37.—Stock and Transfer Books Must Be Kept In Registered Office; Annual List of Stockholders.

Every corporation shall keep at its principal and registered office in this territory the transfer books in which the transfer of stock shall be registered, and the stock book, which shall contain the name and address of the stockholders, the number of shares held by them respectively, which shall at all times during the usual hours for business be open to the examination of every stockholder; the directors shall cause the secretary, or other officer designated by them having charge of said book to make, at least ten days before every election after the first election, or beginning with the first election if the first directors are named in the certificate of incorporation, a full, true and complete list, in alphabetical order, of all the stockholders entitled to vote at the ensuing election, with the residence of each, and the number of shares held by each, which list shall at all times during the usual hours for business be kept at such principal and registered office, and open to the examination

of any stockholder at said office, and if any officer having charge of such books or list shall, upon demand by any stockholder, refuse or neglect to exhibit such books or list, or submit them to examination as aforesaid, he shall for every such offense forfeit the sum of two hundred dollars, one-half thereof to the use of the school fund of the Territory of New Mexico and the other half to him who will sue for the same to be recovered by civil action in any court of record, together with costs of suit, and the books aforesaid shall be the only evidence as to who are the stockholders entitled to examine such books or list, and to vote at such election: and the board of directors shall produce at the time and place of such election such books and list, there to remain during the election, and the neglect or refusal of said directors to produce the same shall render them ineligible to any office at such election: *Provided*, No stockholder or other person shall have the right to inspect said lists and books for any improper purpose or any purpose not connected with the business of the corporation.

Sec. 38.—Directors, Election Of, Etc.

All elections for directors shall be by ballot, unless otherwise expressly provided in the charter or certificate of incorporation: the polls at every such election shall be opened between the hours of nine o'clock in the morning and five o'clock in the afternoon, and shall close before nine o'clock in the evening; the same shall remain open at least one hour, unless all of the stockholders are present in person or by proxy and have sooner voted, or unless all the stockholders waive this provision in writing; the persons receiving the greatest number of votes shall be the directors: *Provided, However*, That unless otherwise provided in the original or amended certificate of incorporation, or in the by-laws approved at a stockholders' meeting, in all corporations formed under the provisions of this act, a majority in interest of all the stockholders shall be present in person or by proxy to constitute a quorum.

Sec. 39.—Candidate Not to Be Inspector of Election.

No person who is a candidate for the office of director shall act as judge, inspector or clerk of any election for directors: *Provided*, There are other stockholders present not so disqualified; and if any candidate shall act and be elected, his election shall be void, and the directors shall not appoint such person a director within twelve months next succeeding; this section shall not apply to the first election of directors, nor to corpor-

ations not having more than ten stockholders. The judges, inspectors or clerks of election, by whatever name known and as may be provided for in the by-laws of the corporation, shall be named by the president of the corporation, or the chairman of the quorum which may be present when the polls for such election opens if not previously named by the president in the notice of such election.

Sec. 40.—Cumulative Voting.

The certificate of incorporation, original or amended, of any corporation now or hereafter organized under the laws of this territory and thereunder issuing or authorized to issue shares of its capital stock, may provide that at all elections of directors, managers or trustees, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors, managers or trustees to be elected, and that he may cast all of such votes for a single director, manager or trustee or may distribute them among the number to be voted for, or any two or more of them as he may see fit, which right, when exercised, shall be termed cumulative voting.

Sec. 41.—Regulations as to Voting.

Unless otherwise provided in the charter, certificate or by-laws of the corporation, at every election each stockholder, whether resident or non-resident, shall be entitled to one vote in person or by proxy for each share of the capital stock held by him, but no proxy shall be voted on after five years from its date; nor shall any share of stock be voted on at any election which has been transferred on the books of the corporation within twenty days next preceding such election.

Sec. 42.—Voting Powers of Executors and Trustees; Hypothecated Stock.

Every person holding stock as executor, administrator, guardian or trustee, or in any other representative or fiduciary capacity, may represent the same at all meetings of the corporation, and may vote thereon as a stockholder, and every person who shall pledge his stock as collateral security, may, nevertheless, represent the same at all such meetings, and may vote thereon as a stockholder, unless in the transfer to the pledgee on the books of the corporation he shall have expressly empowered the pledgee to vote thereon, in which case only the pledgee or his proxy may represent said stock and vote thereon.

Sec. 43.—Corporation Cannot Vote Its Own Shares.

Shares of stock of a corporation belonging to said corporation shall not be voted upon directly or indirectly.

Sec. 44.—Directors Shall Be Stockholders.

No person shall be qualified to serve as a director of any corporation issuing stock unless he shall be holder of some of the stock thereof; and any director ceasing to be a holder of some of the stock thereof, may be removed from office by the district court upon petition of any person aggrieved by like proceedings as are provided in Section 47 of this act; any corporation may, by its certificate of incorporation or by-laws, determine how many shares a person shall hold to qualify him to be a director.

Sec. 45.—Stock Books to Determine Who May Vote.

In case the right to vote upon any share of stock shall be questioned, the inspectors of the election shall refer to the stock books of the corporation to ascertain who are the stockholders, and in case of a discrepancy between the books, the transfer book shall control and determine who are entitled to vote.

Sec. 46.—Election May Be Postponed.

If the election for directors of any corporation shall not be held on the day designated by the act or certificate of incorporation or by-laws, the directors shall cause the election to be held as soon thereafter as conveniently may be; but on failure to elect directors at the designated time shall work any forfeiture or dissolution of the corporation, but the judge of any district court of the territory may summarily order an election to be held upon the application of any stockholder, and may punish the directors for contempt of court for failure to obey the order.

Sec. 47.—District Court May Summarily Investigate Complaints Touching Elections; May Restrain Persons From Exercising Offices Pending Investigation.

Any person who may be aggrieved by or complain of any election for directors, or any proceeding, act or matter in or touching the same, may make application by petition to the district court of the district in which said election is held, or if the judge of said court is absent to any other district judge in the territory, who, after requiring reasonable notice to be given to the adverse party or to those whose are to be affected thereby, shall proceed forthwith and in a summary way to hear the af-

fidavits, proofs and allegations of the parties, or otherwise inquire into the matter or causes of complaint, and thereupon establish the election so complained of, or order a new election, or make such order and give such relief in the premises as right and justice may require.

Pending the hearing and determination of any application to investigate an election of directors such judge may by order restrain the persons claiming to have been elected to the office of director from exercising any of the functions and duties of the office, and such proceedings shall be docketed and the cause heard and disposed of as any other civil cause brought in the district in which said election was held subject and in accordance with the civil procedure in ordinary cases except as herein otherwise provided.

Sec. 48.—Annual Report to the Secretary of the Territory.

Every domestic corporation and every foreign corporation doing business within this territory, shall file in the office of the secretary of the territory within thirty days after the first election of directors and officers and annually thereafter within thirty days after the time appointed for holding the annual election of directors, a report authenticated by the signatures of the president and one other officer, or by any two directors of the company, stating:

- I. The name of the corporation;
- II. The location (town or city, street and number, if street and number there be) of its registered office in this territory, and the name of the agent upon whom process against the corporation may be served;
- III. The character of its business;
- IV. The amount of its authorized capital stock, if any, and the amount actually issued and outstanding;
- V. The names and addresses of all the directors and officers of the company and when the term of office of each expires;
- VI. The date appointed for the next annual meeting of the stockholders for the election of directors, and how appointed.

If such report is not so made and so filed the secretary of the territory shall notify the corporation of such delinquency by letter addressed to it at the place of its principal office for which notice the secretary shall be paid a fee of \$1.00 by such corporation and if such report is not made and filed within thirty days after such notice, the corporation shall forfeit to the territory two hundred dollars, to be recovered with costs in a civil action, to be prosecuted by the solicitor general or

any district attorney, who shall prosecute such actions whenever it shall appear that this section has been violated: *And Further, Provided*, If such report be not so made and filed, all of the directors of any such domestic corporation who shall wilfully refuse to comply with the provisions hereof and who shall be in office during the default shall at the time appointed for the next election, and for a period of one year thereafter, be thereby rendered ineligible for election or appointment to any office in the company as directors or otherwise; no director shall be thus disqualified for the failure to make and file such report if he shall file with the secretary of the territory before the time appointed for holding the next election of directors after said default, a certificate stating that he has endeavored to have such report made and filed, but that the officers have neglected to make and file the same, and shall report the items required to be stated in such annual report so far as they are within his knowledge or are obtainable from sources of such information open to him, verified by him to be true to the best of his knowledge, information and belief; the secretary of the territory shall upon application furnish blanks in proper form and shall safely keep in his office all such reports and shall prepare an alphabetical index thereof, which reports and index shall be open to the inspection of all persons at proper hours.

2. In case any domestic corporation, or any foreign corporation authorized to transact business in this territory, shall fail to file such report within the time required by this section, or in case the agent of any such corporation designated by any such corporation as the agent upon whom process against the corporation may be served shall die, or shall resign, or shall remove from the territory, or such agent cannot with due diligence be found, it shall be lawful, while such default continues, to serve process against any such corporation upon the secretary of the territory, and such service shall be as effective to all intents and purposes as if made upon the president or head officers of such corporation, and within two days after such service upon the secretary of the territory as aforesaid, it shall be the duty of the secretary to notify such corporation thereof by letter directed to such corporation at its registered office, in which letter shall be inclosed a copy of the process or other paper served, and it shall be the duty of the plaintiff in any action in which said process shall be issued to pay to the secretary of the territory, the sum of three dollars, which said sum shall be taxed as a part of the taxable costs in said suit if the plaintiff prevails therein; the secretary of the territory shall keep a book to be called "process book,"

in which shall be recorded alphabetically, by the name of the plaintiff and defendant therein, the title of all causes in which processes have been served upon him, the test of the process so served and the return day thereof, and the date and hour when such service was made.

3. The terms "principal office," "principal office in this territory" and "registered office," wherever used in this act, shall be construed as synonymous terms.

Sec. 49.—Every Certificate and Report Must Give Address of New Mexico Office and Name of Agent.

Every certificate, report or statement now or hereafter required by any law of this territory to be made to any officer or department of this territory, or to be published, filed or recorded by any corporation, domestic or foreign, shall in addition to the other matter required by law, set forth the location (town or city, street and number, if street and number there be) of its principal office in this territory, and the name of the agent therein and in charge thereof, and upon whom process against the corporation may be served.

No certificate, statement or report shall hereafter be received, filed or recorded by any officer or in any office of this territory unless the same shall comply with the foregoing provisions.

Such office of any domestic corporation so registered shall be and be deemed the office and postoffice address of such domestic corporation, its officers, directors, stockholders, and whenever by the provisions of any law of this territory notice is required to be given to the corporation, its officers, stockholders or directors, such notice shall be sent by mail or otherwise, as the law may require, to such registered office, and such notice so given shall be and be deemed sufficient notice.

Whenever by any law of this territory in any such certificate, report or statement, the residence or postoffice address of any incorporator, stockholder, director or officer is required to be set forth or given, it shall be and be deemed a full compliance with such provision to give as such postoffice address the postoffice address of the registered office of the company within this territory.

Sec. 50.—Stockholders' Meetings Must Be Held at Registered Office in New Mexico; Corporations Must Maintain a New Mexico Office; Directors May Meet Out of Territory.

In all cases where it is not otherwise provided by law, the meetings of the stockholders of every corporation of this terri-

tory shall be held at its principal office in this territory; the directors may hold their meetings, and have an office, and keep the books of the corporation (except the stock and transfer books) outside of this territory: *Provided, However,* Duplicates of the stock and transfer books may be kept at any office outside of this territory and in such case all transfers made or reported to the office or agent who keeps the stocks and transfer books outside of this territory shall be immediately reported to the officer who keeps the stock and transfer books in this territory and the entries of transfer made thereon, if the by-laws or certificate of incorporation so provide; every corporation shall maintain a principal office in this territory, and have an agent in charge thereof, wherein shall be kept the stock and transfer books for the inspection of all who are authorized to see the same, and for the transfer of stock, the district court, or any judge thereof, may, upon proper cause shown, summarily order any or all of the books of said corporation to be forthwith brought within this territory, and kept therein at such place and for such time as may be designated in such order, and the charter of any corporation failing to comply with such order may be declared forfeited by the court making such order, and it shall thereupon cease to be a corporation, and its directors and officers shall be liable to be punished for contempt of court for disobedience of such order.

Sec. 51.—Name to Be Displayed at Office.

The name of every corporation shall be at all times conspicuously displayed at its principal office in this territory.

Sec. 52.—Call of Meeting of Stockholders.

Whenever, for any reason, a legal meeting of the stockholders of any corporation cannot be otherwise called, one-tenth of any class of stock having voting powers may call such meeting by publishing ten days' notice of the time, place and purposes of the meeting in a newspaper published in the county in which its principal office in this territory is located, and mailing such notice to all stockholders whose postoffice address is known or can be ascertained; a meeting called as aforesaid shall be a legal meeting of the corporation, and if there be no officers present, the stockholders may elect officers for the meeting; and the secretary of the meeting shall record the proceedings thereof in the book of minutes of the corporation.

ARTICLE 4.—DIVIDENDS, PAYMENT OF CAPITAL STOCK.**Sec. 53.—Directors to Declare Dividends.**

Unless otherwise provided in the original or amended certificate of incorporation, or in a by-law or resolution adopted by a vote of at least a majority of the stockholders, the directors of every corporation created under this act shall, in January in each year, after reserving over and above its capital stock paid in, as a working capital for said corporation, such sum, if any, as shall have been fixed by the stockholders, declare a dividend among its stockholders of the whole of its accumulated profits exceeding the amount so reserved. and pay the same to such stockholders on demand.

Sec. 54.—Capital Stock to Be Paid in Money; Loans to Stockholders Forbidden.

Nothing but money shall be considered as payment of any part of the capital stock of any corporation organized under this act, except as hereinafter provided in case of the purchase of property, and no loan of money shall be made to a stockholder or officer thereof, while the corporation owes any unsecured debt; and if any such loan be made the officers who make it, or assent thereto, shall be jointly and severally liable, to the extent of such loan and interest, for all such debts of the corporation then existing or created until the repayment of the sum so loaned.

Sec. 55.—Stock Issued for Property Purchased.

Any corporation formed under this act may purchase mines, manufactories or other property necessary or proper for its business, or the stock of any company or companies owning, mining, manufacturing or producing materials, or other property necessary or proper for its business, and issue stock to the amount of the value thereof in payment therefor, and the stock so issued shall be full-paid stock and not liable to any further call, neither shall the holder thereof be liable for any further payment under any of the provisions of this act; and in the absence of actual fraud in the transaction, the judgment of the directors as to the value of the property purchased shall be conclusive; and in all statements and reports of the corporation to be published or filed this stock shall not be stated or reported as being issued for cash paid to the corporation, but shall be reported in this respect according to the fact.

Sec. 56.—Corporations May Not Plead Usury.

No corporation shall hereafter plead or set up the defense of usury to any action brought against it to recover damages

or enforce a remedy on any obligation executed by said corporation: *Provided*, That this act shall not apply to any such action which is now pending.

Sec. 57.—Certain Corporations May Take Stock and Bonds in Other Corporations in Payment for Labor and Materials.

Corporations having for their object the building, constructing or repairing of railroads, water, gas, or electric works, tunnels, bridges, viaducts, canals, irrigation ditches, flumes and reservoirs, hotels, wharves, piers or any like works of internal improvement or public use of utility, may subscribe for, take, pay for, hold, use and dispose of stock or bonds in any corporations formed for the purpose of constructing, maintaining and operating any such public works; and the directors of any such corporation formed for the purpose of constructing, maintaining and operating any public work of the description aforesaid may accept in payment of any such subscription, or purchase, real or personal property, necessary for the purposes of such corporation, or work, labor and services performed or material furnished to or for such corporation to the amount of the value thereof and from time to time issue upon any such subscription or purchase, in such installments or proportions as such directors may agree upon, full paid stock in full or partial performance of the whole or any part of such subscription or purchase, and the stock so issued shall be full-paid stock and not liable to any further call, neither shall the holder thereof be liable for any further payments, and in all statements and reports of the corporation to be published or filed this stock shall not be stated or reported as being used for cash paid to the corporation, but shall be reported in this respect according to the fact.

This section shall also apply to the taking or acceptance of stock of mining companies or corporations for manufacturing or any other industrial pursuits, in payment or part payment for such work or improvement.

Sec. 58.—Any Corporation May Hold Stock and Bonds of Other Corporations.

Any corporation may purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the shares of the capital stock of, or any bonds, securities or evidences of indebtedness created by any other corporation or corporations of this or any other territory or state, and while owner of such stock may exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

Sec. 59.—Penalties for False Certificates.

If any certificate made, or any public notice given by the officers of any corporation, in pursuance of the provisions of this act, shall be false in any mineral representation, all the officers who shall have signed the same, knowing it to be false shall be jointly and severally liable for all the debts of the corporation contracted while they were stockholders or officers thereof, as a penalty enforceable in the courts of this territory only.

ARTICLE 5.—WINDING UP.**Sec. 60.—Corporate Existence Continues.**

All corporations, whether they expire by their own limitation or be annulled by the legislature or otherwise dissolved, shall be continued bodies corporate for the purpose of prosecuting and defending suits by or against them, and of enabling them to settle and close their affairs, to dispose of and convey their property and to divide their capital, but not for the purpose of continuing the business for which they were established.

Sec. 61.—Directors; Trustees on Dissolution.

Upon the dissolution in any manner of any corporation the directors shall be trustees thereof, with full power to settle the affairs, collect the outstanding debts, sell and convey the property and divide the moneys and other property among the stockholders, after paying its debts, as far as such moneys and property shall enable them; they shall have power to meet and act under the by-laws of the corporation and, under regulations to be made by a majority of said trustees, to prescribe the terms and conditions of the sale of such property, and may sell all or any part for cash, or partly on credit, or take mortgages and bonds for part of the purchase price for all or any part of said property.

Sec. 62.—Powers and Liabilities of Such Trustees.

The directors, constituted trustees as aforesaid, shall have authority to sue for and recover the aforesaid debts and property, by the name of the corporation, and shall be suable by the same name, or in their own names or individual capacities, for the debts owing by such corporation, and shall be jointly and severally responsible for such debts, to the amount of the moneys and property of the corporation which shall come to their hands or possession as such trustees.

Sec. 63.—The District Courts May Continue Directors as Trustees or Appoint Receivers of Dissolved Corporations.

Whenever any corporation shall be dissolved in any manner whatever, the district court, on application of any creditor or stockholder at any time, may either continue the directors trustees as aforesaid, or appoint one or more persons to be receivers of such corporation, to take charge of the estate and effects thereof, and to collect the debts and property due and belonging to the corporation, with power to prosecute and defend, in the name of the corporation or otherwise, all suits necessary or proper for the purposes aforesaid, and to appoint an agent or agents under them, and to do all other acts which might be done by such corporation, if in being, that may be necessary for the final settlement of its unfinished business; and the powers of such trustees or receivers may be continued as long as the court shall think necessary for such purposes.

Sec. 64.—Jurisdiction of the District Court.

The district court shall have jurisdiction of said application and of all questions arising in the proceedings thereon, and may make such orders and decrees therein as justice and equity shall require.

Sec. 65.—Disposition of Proceeds By Trustees or Receivers.

The said trustees or receivers shall pay ratably, as far as its moneys and property shall enable them, all the creditors of the corporation who prove their debts in the manner directed by the court; and if any balance remain after the payment of such debts and necessary expenses, the same shall be distributed among the stockholders.

Sec. 66.—Actions Not to Abate on Dissolution.

Any action, now pending or to be hereafter begun, against any corporation which may become dissolved before final judgment, shall not abate by reason thereof, but no judgment shall be entered therein except upon notice to the trustees or receivers of the corporation.

Sec. 67.—Copy of Decree of Dissolution to Be Filed in Office of Secretary of Territory.

A copy of every decree or judgment dissolving a corporation or forfeiting its charter shall be forthwith filed by the clerk of the court in the office of the secretary of the territory, and a note thereof shall be made by the secretary of the territory on the charter or certificate of incorporation, and in the index thereof, and be published by him in his annual report of corporations.

ARTICLE 6.—EXECUTION AGAINST CORPORATION.**Sec. 68.—On Execution Schedule of Property to Be Furnished to Officer.**

Every agent or person having charge or control of any property of a corporation, on request of any public officer, having for service a writ of execution against it, shall furnish to him the names of the directors and officers thereof, and a schedule of all its property, including debts due or to become due to it so far as he may have knowledge of the same.

Sec. 69.—Execution May Be Satisfied By Debts Due the Corporation.

If any officer, holding an execution shall be unable to find other property belonging to the corporation liable to execution, he or the judgment creditor may elect to satisfy such execution, in whole or in part, by any debts due to the corporation; and it shall be the duty of any agent or person having custody of any evidence of such debt, to deliver the same to the officer, for the use of the creditor, and such delivery, with a transfer to the officer in writing, for the use of the creditor, and notice to the debtor, and shall be a valid assignment thereof; and such creditor may sue for and collect the same in the name of the corporation, subject to such equitable set-offs on the part of the debtor, as in other assignments; and every agent or person who shall neglect or refuse to comply with the provisions of this and the last preceding section, shall be himself liable to pay to the execution creditor the amount due on said execution, with costs.

ARTICLE 7.—INSOLVENCY.**Sec. 70.—Directors Must Call Meeting of Stockholders When Corporation Becomes Insolvent**

Whenever any corporation shall become insolvent, the directors, within ten days thereafter, shall call a meeting of the stockholders, and lay before them for inspection and examination all the books of accounts, by-laws and minutes of the corporation, and exhibit a full and true statement of all its estate, funds and property, and of all the debts due and owing to it, and by whom, and of all the debts owing by it, and to whom, as far as the directors can at that time make out the same; so as to exhibit to the stockholders a full, fair and true account of the situation of the affairs of the corporation.

Sec. 71.—Assignment of Property, Etc., Void as Against Creditors.

Whenever any corporation shall become insolvent or shall suspend its ordinary business for want of funds to carry on

the same, neither the directors nor any officer or agent of the corporation shall sell, convey, assign or transfer any of its estate, effects, choses in action, goods, chattels, rights or credits, lands or tenements; nor shall they or either of them make any such sale, conveyance, assignment or transfer in contemplation of insolvency, and every such sale, conveyance, assignment or transfer shall be utterly null and void as against creditors: *Provided*, That a *bona fide* purchase for a valuable consideration, before the corporation shall have actually suspended its ordinary business, by any person without notice of such insolvency or of the sale being made in contemplation of insolvency, shall not be invalidated or impeached.

Sec. 72.—Remedy By Injunction and Receiver in Case of Insolvency.

Whenever any corporation shall become insolvent or shall suspend its ordinary business for want of funds to carry on the same, any creditor or stockholder may by complaint setting forth the facts and circumstances of the case, apply to the district court for a writ of injunction and the appointment of a receiver or receivers or trustees, and the court being satisfied by affidavit or otherwise of the sufficiency of said application, and of the truth of the allegations contained in the complaint, and upon such notice, if any, as the court by order may direct, may proceed in a summary way to hear the affidavits, proofs and allegations which may be offered on behalf of the parties, and if upon such inquiry it shall appear to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter with safety to the public and advantage to the stockholders, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts, or paying out, selling, assigning or transferring any of its estate, moneys, funds, lands, tenements or effects, except to a receiver appointed by the court, until the court shall otherwise order.

Sec. 73.—Court May Appoint Receivers; Powers of Receivers.

The district court, at the time of ordering said injunction, or at any time afterwards, may appoint a receiver or receivers or trustees for the creditors and stockholders of the corporation, with full power and authority to demand, sue for, collect, receive and take into their possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, papers, choses in action, bills, notes and property of every description of the corporation, and to institute suits at

law or in equity for the recovery of any estate, property, damages or demands existing in favor of the corporation, and in his or their discretion to compound and settle with any debtor or creditor of the corporation, or with persons having possession of its property or in any way responsible at law or in equity to the corporation at the time of its insolvency or suspension of business, or afterwards upon such terms and in such manner as he or they shall deem just and beneficial to the corporation, and in case of mutual dealings between the corporation and any person to allow just off-sets in favor of such person in all cases in which the same ought to be allowed according to law and equity; a debtor who shall have in good faith paid his debt to the corporation without notice of its insolvency or suspension of business, shall not be liable therefor, and the receiver or receivers or trustees shall have power to sell, convey and assign all the said estate, rights and interests, and shall hold and dispose of the proceeds thereof under the directions of the district court; the word receiver as used in this act shall be construed to include receivers and trustees appointed as provided in this act.

Sec. 74.—Receiver to Qualify and Take Oath.

Every receiver shall before acting enter into such bond and comply with such terms as the court may prescribe, and take and subscribe the following oath or affirmation: "I, do swear (or affirm) that I will faithfully, honestly and impartially execute the powers and trusts reposed in me as receiver, for the creditors and stockholders of the, and that without favor or affection," which oath or affirmation shall be filed in the office of the clerk of the district court within ten days after the taking thereof.

Sec. 75.—Property, Etc., Vests In Receiver Upon Appointment.

All the real and personal property of an insolvent corporation, wheresoever situated, and all its franchises, rights, privileges and effects shall, upon the appointment of a receiver, forthwith vest in him, and the corporation shall be divested of the title thereto.

Sec. 76.—When Debts Paid or Provided for, Court May Direct Receiver to Reconvey Property, or May Dissolve Corporation.

Whenever a receiver shall have been appointed as aforesaid and it shall afterwards appear that the debts of the corporation have been paid or provided for, and that there remains or can be obtained by further contributions sufficient capital to enable it to resume its business, the district court may,

in its discretion, a proper case being shown, direct the receiver to reconvey to the corporation all its property, franchises, rights and effects, and thereafter the corporation may resume control of and enjoy the same as fully as if the receiver had never been appointed; and in every case in which the district court shall not direct such reconveyance, said court may, in its discretion, make a decree dissolving the corporation and declaring its charter forfeited and void.

Sec. 77.—Upon Reorganization Company May Issue Bonds and Stock to Creditors.

Whenever a majority in interest of the stockholders of such corporation shall have agreed upon a plan for the reorganization of the corporation and a resumption by it of the management and control of its property and business, such corporation may, with the consent of the district court, upon the reconveyance to it of its property and franchises, mortgage the same for such amount as may be necessary for the purposes of such reorganization; and may issue bonds or other evidences of indebtedness, or additional stock, or both, and use the same for the full or partial payment of creditors who will accept the same, or otherwise dispose of the same for the purposes of the reorganization.

Sec. 78.—Court May Appoint Referee.

The court may make a reference in any cause pending in which a receiver has been appointed as in other cases where the court is authorized to make a reference, and by its order direct the referee to take such proofs and to send for persons and papers and to examine creditors and claimants and the president, directors and other officers and agents of the said corporation, on oath or affirmation (which oath or affirmation the referee may administer), respecting its affairs and transactions and its estate, money, goods, chattels, credits, notes, bills and choses in action, real and personal effects of every kind, and also respecting its debts, obligations, contracts and liabilities, and the claims against it, and if any person shall refuse to be sworn or affirmed, or testify and answer such questions as shall be put to him, or refuse to declare the whole truth touching the subject matter of the said examination, on report of said referee the court may commit such person to prison, there to remain until he shall submit himself to be examined, and pay all the costs of the proceedings against him.

Sec. 79.—Acts of Majority of Receivers or Trustees Valid; Receivers May Be Removed and Others Appointed.

Every matter and thing by this act required to be done by receivers or trustees shall be good and effectual, to all intents and purposes, if performed by a majority of them; and the court may remove any receiver or trustee, and appoint another or others in his place or fill any vacancy which may occur.

Sec. 80.—Inventory and Report.

Such receiver, as soon as convenient, shall lay before the district court a full and complete inventory of all the estate, property, and effects of the corporation, its nature and probable value, and an account of all debts due from and to it, as nearly as the same can be ascertained, and make a report to the court of his proceedings every six months thereafter during the continuance of the trust. The court may require of the said referee a report of all matters authorized to be inquired into by him from time to time and as often as it may deem necessary and to the extent to which it may deem necessary.

Sec. 81.—Court May Limit Time to Present and Make Proofs of Claims.

The court may limit the time within which creditors shall present and make proof before the said referee of their respective claims against the corporation, and may bar all creditors and claimants failing so to do within the time limited from participating in the distribution of the assets of the corporation; the court may also prescribe what notice, by publication or otherwise, shall be given to creditors of such limitation of time.

Sec. 82.—Claims to Be Under Oath.

Every claim against an insolvent corporation shall be presented to the referee in writing and upon oath; and the claimant, if required, shall submit himself to such examination in relation to the claim as the referee shall direct, and shall produce such books and papers relating to the claim as shall be required; and the referee shall have the power to examine, under oath or affirmation, all witnesses produced before him touching the claims, and shall pass upon and allow or disallow the claims, or any part thereof, and notify the claimants of his determination.

Sec. 83.—Trial By Jury Allowed.

Any creditor or claimant who shall lay his claim before such referee, may, at the same time, demand that a jury shall

decide thereon, and in like manner the receiver may demand that the same shall be referred to a jury; and in either case such demand shall be entered on the minutes of the referee, and thereupon an issue shall be made up between the parties, under the direction of the district court, and a jury impanelled, as in other cases, to try the same in the district court of the county in which the corporation carried on its business or had its principal office, as in other civil cases, and the claim shall be docketed as other civil cases in said court; the verdict of the jury shall be subject to the control of the court as in suits originally instituted therein, and when rendered, if not set aside by the court, shall be certified by the clerk to the receiver and referee, and the creditor shall be considered in all respects as having proved his debt or claim for the amount so ascertained to be due, and in all cases in which no trial by jury shall be demanded the court shall have jurisdiction to pass upon the claims presented and to determine the rights of the claimants, and to make such order or decree touching the same as shall be equitable and just.

Sec. 84.—Persons Aggrieved By Proceedings May Appeal to the District Court.

Every insolvent corporation, or any person aggrieved by the proceedings or determination of such referee in the discharge of his duty, may appeal to the district court, which court shall, in a summary way, hear and determine the matter complained of, and make such order touching the same as shall be equitable and just.

Sec. 85.—Upon Application Receiver to Be Substituted as Plaintiff in Suits Pending at Time of Appointment.

Such receiver shall, upon application by him, be substituted as party plaintiff or complainant in the place and stead of the corporation in any suit or proceeding at law or in equity which was pending at the time of his appointment.

Sec. 86.—Actions Not to Abate By Death of Receiver.

No action against a receiver of a corporation shall abate by reason of his death, but, upon suggestion of the facts on the record, shall be continued against his successor, or against the corporation in case no new receiver be appointed.

Sec. 87.—Court May Order Receiver to Sell Incumbered Property in Litigation Free of Liens

Where property of an insolvent corporation is at the time of the appointment of a receiver incumbered with mortgages or other liens, the legality of which is brought in question, and the property is of a character materially to deteriorate in value

pending the litigation, the district court may order the receiver to sell the same, clear of incumbrances, at public or private sale, for the best price that can be obtained, and pay the money into the court, there to remain subject to the same liens and equities of all parties in interest as was the property before sale, to be disposed of as the court shall direct.

Sec. 88.—Receiver of Railroad, Public Work, Etc., May Sell or Lease Principal Work, Franchise, Etc.

Whenever a receiver of a corporation shall have charge of a canal, railroad, turnpike or other work of a public nature, in which the value of the work is dependent upon the franchise, and in the continuance of which the public as well as the stockholders and creditors have an interest, the receiver may sell or lease the principal work for the construction whereof the said corporation was organized, together with all the chartered rights, privileges and franchises belonging to it and appertaining to such principal work; and the purchaser or purchasers, lessee or lessees of such principal work, chartered rights, privileges and franchises, shall thereafter hold, use and enjoy the same during the whole of the residue of the term limited in the charter of said corporation, or during the term in such lease specified, in as full and ample a manner as such corporations could or might have use and enjoyed the same; subject, however, to all the restrictions, limitations and conditions contained in such charter: *Provided*, That nothing in this section contained shall be so construed as to apply to or in anywise affect any corporation authorized by law to exercise banking privileges.

Sec. 89.—Laborers and Workmen to Have First Lien on Assets.

In case of the insolvency of any corporation the laborers and workmen, and all persons doing labor or service of whatever character, in the regular employ of such corporation, or furnishing material or supplies necessary for the actual operation of the business of such corporation or the betterment of its property, shall have a first and prior lien upon the assets thereof for the amount of wages due to them respectively for all labor, work and services done, performed or rendered, or material or supplies furnished, within four months next preceding the date when proceedings in insolvency shall be actually instituted and begun against such insolvent corporation.

Sec. 90.—Prior Liens; Exception.

Such lien shall be prior to all other liens that can or may be acquired upon or against such assets, except the lien and incumbrance of a chattel mortgage, recorded more than two

months next preceding the date when proceedings in insolvency shall have been actually instituted against such insolvent corporation, and except the lien and incumbrance of a chattel mortgage recorded within two months next preceding the date when proceedings in insolvency shall have been actually instituted against such insolvent corporation, for money loaned or for goods purchased within said period of two months.

Sec. 91.—Compensation of Receivers.

Before distribution of the assets of an insolvent corporation among the creditors or stockholders the district court shall allow a reasonable compensation to the receiver for his services and the costs and expenses of the administration of his trust, and the costs of the proceedings in said court, to be first paid out of said assets.

Sec. 92.—Distribution, How Made.

After payment of all allowances, expenses and costs, and the satisfaction of all special and general liens upon the funds of the corporation to the extent of their lawful priority, the creditors shall be paid proportionally to the amount of their respective debts, excepting mortgage and judgment creditors when the judgment has not been by confession for the purpose of preferring creditors; and the creditors shall be entitled to distribution on debts not due, making in such case a rebate of interest, when interest is not accruing on the same; and the surplus funds, if any, after payment of the creditors and the costs, expenses and allowances aforesaid, and the preferred stockholders, shall be levied and paid to the general stockholders proportionally, according to their respective shares.

ARTICLE 8.—SERVICE OF PROCESS.

Sec. 93.—Process Against Corporations of This Territory.

In any personal action commenced against a corporation in any of the courts of this territory, the first process to be made use of may be a summons or writ of attachment, a copy whereof, shall be served on the president, or other head officer or agent in charge of its principal office in this territory, or left at his dwelling house or usual place of abode, at least the length of time now provided by law for the service of such process on individuals before its return; and in case the president or other head officer or agent cannot be found to be served with process, and has no dwelling house or usual place of abode within this territory, a copy of the summons or writ of attachment shall be served on the clerk or secretary of the corporation, if any there be, and if no clerk or secretary, then

on one of its directors, or left at his dwelling house or usual place of abode, the same length of time as in case of service of process on individuals before its return. A copy of the complaint in said cause may be served in the same manner.

Sec. 94.—Process Against Foreign Corporations.

In all personal suits or actions hereafter brought in any court of this territory, against any foreign corporation, process may be served upon any officer, director or agent of such corporation, either personally or by leaving a copy thereof at his dwelling house or usual place of abode, or by leaving a copy at the office, depot or usual place of business of such foreign corporation.

Sec. 95.—Proceedings When Summons Not Served.

In case the sheriff or other officer shall return a summons, issued against any corporation of this territory, "not served" or "not summoned," and an affidavit shall be made to the satisfaction of the court that process cannot be served upon it, the court shall make an order directing the defendant to cause its appearance to be entered in the action, on a day to be specified in the order, a copy of which order shall be inserted in one of the newspapers published in this territory, for at least three weeks, once in each week, and a copy thereof shall also be posted in three public places in this territory, as shall be ordered by the court, for at least three weeks, and if the defendant shall not appear within the time limited by the order, or within such further time as the court shall limit, then, on proof of the publication and posting of the order, the court shall order the clerk to enter appearance for the defendant, and thereupon the action shall proceed as if the defendant had entered its appearance to the action.

ARTICLE 9.—REMEDIES AGAINST OFFICERS AND STOCKHOLDERS.

Sec. 96.—Action for Liability Imposed By Act; Remedy.

When officers, directors or stockholders of any corporation shall be liable to pay the debts of the corporation, or any part thereof, any person to whom they are liable may have an action against any one or more of them; and the complaint shall state the claim against the corporation, and the ground on which the plaintiff expects to charge the defendants personally; or the person to whom they are liable may have his remedy by equity in a proper case.

Sec. 97.—Stockholders, Etc., Who Pay Company's Debts May Recover.

Any officer, director or stockholder who shall pay any debt of a corporation for which he is liable by the provisions of this act, may recover the amount so paid in an action against the corporation for money paid for its use, in which action only the property of the corporation shall be liable to be taken, and not the property of any stockholder.

Sec. 98.—Property of Directors, Etc., Not to Be Sold for Company's Debt Until Remedy Against the Company Has Been Exhausted.

No sale or other satisfaction shall be had of the property of any director or stockholder for any debt of the corporation of which he is such director or stockholder till judgment be obtained therefor against such corporation and execution thereon returned unsatisfied, but any suit brought against any director or stockholder for such debts shall stay after execution levied, or other proceeding to acquire a lien, until such return shall have been made.

ARTICLE 10.—FOREIGN CORPORATIONS.**Sec. 99.—Foreign Corporation May Hold and Convey Lands, Etc.**

Any foreign corporation created by any other territory or state or by any foreign state, kingdom or government may acquire by devise or otherwise and hold, mortgage, lease and convey real estate, in this territory for the purpose of prosecuting its business or objects, or such real estate as it may acquire by way of mortgage or otherwise, in the payment of debts due such corporation: *Provided*, Such foreign state, kingdom or government, under whose laws such corporation was created, shall not be at the time of such purchase at war with the United States.

Sec. 100.—Foreign Corporation May Acquire, Own and Dispose of Real Estate in New Mexico.

It shall be lawful for any foreign corporation whatsoever to purchase and convey, to lease, hold, occupy and use for the purposes of such corporation such real estate in this territory as may be devised or conveyed to it; subject to such limitation as may be prescribed by the acts of congress while it remains a territory and by the constitution after it becomes a state.

Sec. 101.—Foreign Corporations Subject to This Act.

Foreign corporations doing business in this territory shall be subject to the provisions of this act, so far as the same can be applied to foreign corporations. Foreign corporations includ-

ing railroad and telegraph corporations having complied with the law shall have the same powers and be subject to all liabilities and duties as corporations of a like character organized under the laws of this territory; but they shall have no other or greater powers. And no foreign or domestic corporation established or maintained in any way for pecuniary profit of its stockholders or members shall purchase or hold real estate in this territory except as provided in this act and the laws of the territory now existing, and no corporation doing business in this territory, incorporated under the laws of any other state or territory shall be permitted to mortgage, pledge or otherwise incumber its real or personal property, situated in this territory, to the injury or exclusion of any citizen. citizens or corporations of this territory, who are creditors of such foreign corporation, and no mortgage by any foreign corporation, except railroad and telegraph companies, given to secure any debt created in any other state, shall take effect as against any citizen or corporation of this territory until all its liabilities due to any person or corporation in this territory at the time of recording such mortgage have been paid and extinguished.

Sec. 102.—Foreign Corporations to File Copy of Charter, Statement, Etc., Before Commencing Business.

Every foreign corporation, except banking, insurance and railroad corporations, before transacting any business in this territory, shall file in the office of the secretary of the territory a copy of its charter, or certificate of incorporation, certified by the proper authority of the territory, state or county of its creation, and a statement of the amount of its capital stock authorized and in the amount actually issued, the character of the business which it is to transact in this territory, and designating its principal office in this territory and an agent who shall be a domestic corporation or a natural person of full age actually resident in this territory, together with his place of abode, upon which agent process against said corporation may be served and the agency so constituted shall continue until the substitution, by writing, of another agent; upon the filing of such copy and statement, the secretary of the territory shall issue to such corporation a certificate that it is authorized to transact business in this territory, and that the business is such as may be lawfully transacted by corporations of this territory, and he shall keep a record of all such certificates issued.

Sec. 103.—Cannot Maintain Action Until Certificate of Secretary of the Territory is Obtained.

Until such corporation so transacting business in this territory shall have obtained said certificate from the secretary of the territory, it shall not maintain any action in this territory, upon any contract made by it in this territory: *Provided*, That nothing herein shall prevent the enforcement of any contract made prior to the passage of this act, which it could have enforced prior thereto.

Sec. 104.—On Death of Agent, Another to Be Appointed; Penalty for Failure.

If said agent shall die, remove from the territory or become disqualified, such corporation shall forthwith file in the office of the secretary of the territory a written appointment of another agent, attested in the manner above provided, and in case of the omission to do so within thirty days after such death, removal or disqualification, then the secretary of the territory, upon being satisfied that such omission has continued for thirty days, shall, by entry on the record thereof, revoke the certificate of authority to transact business within this territory, and process against such corporation in actions upon any liability incurred within this territory before the designation of another agent, may, after such revocation, be served upon the secretary of the territory; at the time of such service the plaintiff shall pay to the secretary of the territory two dollars, to be included in the taxable costs of such plaintiff, and the secretary of the territory shall forthwith mail a copy of such process to such corporation at its general office or to the address of some officer thereof, if known to him.

Sec. 105.—Unlawful to Transact Business Until Authority is Obtained.

Every foreign corporation transacting any business in any manner whatsoever, directly or indirectly, in this territory, without having first obtained authority therefor, as hereinabove provided, shall for each offense forfeit to the territory the sum of two hundred dollars, to be recovered with costs in an action prosecuted by the solicitor general in the name of the territory.

Sec. 106.—Attachment Against Foreign Corporation.

Attachments may issue against corporations not created or recognized as corporations and joint stock associations of this territory by the laws of this territory and not having qualified themselves to do business in this territory.

Sec. 107.—Service of Prerogative Writ Against Foreign Corporations.

In any proceeding in any court of this territory against a foreign corporation requiring the use of any prerogative writ, such writ may be served upon the president, vice-president, secretary or other head officer, or any director, either personally or by leaving a copy at the dwelling house or usual place of abode of such officer or director, or upon any general agent, attorney, solicitor, superintendent or manager of such corporation.

Sec. 108.—How Writs May Be Enforced Upon Failure to Make Return.

In case any such corporation, after the service of any writ, as aforesaid, shall neglect or refuse to make a proper return thereto, or shall neglect or refuse to obey the command of any such writ, when issued upon any judgment, order or decree of the supreme court or any of the district courts of this territory, and served as aforesaid, within the time prescribed by such writ, said court may enforce such writs by attachment or sequestration of the property, rights and credits of the corporation within this territory.

ARTICLE 11.—MERGER OF CORPORATIONS.**Sec. 109.—Corporations of This Territory May Merge and Consolidate.**

Any two or more corporations organized under any law or laws of this territory for the purpose of carrying on any kind of business of the same or a similar nature may merge or consolidate into a single corporation, which may be either one of said merging or consolidating corporations, or a new corporation to be formed by means of such merger and consolidation.

Sec. 110.—Consolidation or Merger; How Made.

The consolidation or merger shall be made under the conditions, provisions, restrictions, and with the powers hereinafter mentioned.

I. The directors of the several corporations proposing to merge or consolidate may enter into a joint agreement under the corporate seals of the respective corporations, for the merger or consolidation of said corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation (if one shall be so formed or created), or of the consolidated corporation, as the case may be; the number, names and places of residence of the first directors and officers of such new or consolidated corporation (who shall hold their offices until their successors be chosen or appointed, either according to law or according to the by-laws of the said corporation); the number of shares

of the capital stock, whether common or preferred, and the amount or value of each share of such new or consolidated corporation; and the manner of converting the capital stock of each of said merging or consolidating corporations into the stock or obligations of such new or consolidated corporation, and in case of the creation of a new corporation, how and when the directors and officers shall be chosen or appointed; together with all such other provisions and details as such first mentioned directors shall deem necessary to perfect the merger or consolidation of said corporation.

II. The agreement shall be submitted to the stockholders of each of said merging or consolidating corporations, separately, at a meeting thereof, to be called for the purpose of taking the same into consideration; and twenty days' notice of the time, place and object of such meeting shall be mailed to the last known postoffice address of each of such stockholders; and at the said meetings of stockholders the said agreement of such directors shall be considered, and a vote of the stockholders of each corporation by ballot shall be taken separately, for the adoption or rejection of the same, each share of stock entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy; and if the votes of the holders of two-thirds of the capital stock of each of the said merging or consolidating corporations shall be for the adoption of said agreement, that fact shall be certified thereon by the secretary of each of the respective corporations, under the seal thereof, and the agreement, so adopted and so certified, shall be filed in the office of the secretary of the territory; and shall from thence be deemed and taken to be the agreement and act of merger or consolidation of the said corporations, and a copy of said agreement and act of merger or consolidation, duly certified by the secretary of the territory under the seal thereof, shall be evidence of the existence of such new or consolidated corporation.

Sec. 111.—Corporations Merged or Consolidated Shall Be One Corporation.

Upon making and perfecting the said agreement and act of merger or consolidation, and filing the same in the office of the secretary of the territory, the several corporations shall be one corporation, by the name provided in said agreement (in case a new corporation shall be created thereby), or by the name of the consolidated corporation into which said other contracting corporation or corporations shall be so merged or consolidated, as the case may be, and possessing all the rights,

privileges, powers and franchises, as well of a public as of private nature, and being subject to all the restrictions, disabilities and duties of each of such corporations so merged or consolidated, except as altered by the provisions of this act.

Sec 112.—Upon Merging, Rights to Be Vested in New Corporations.

Upon the consummation of said act of merger or consolidation, all and singular, the rights, privileges, powers and franchises of each of said corporations, and all property, real, personal and mixed, and all debts due on whatever account, as well for stock subscriptions as all other things in action or belonging to each of such corporations, shall be vested in the consolidated corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the consolidated corporation as they were of the several and respective former corporations, and the title to any real estate, whether by deed or otherwise, under the laws of this territory, vested in either of such corporations, shall not revert or be in any way impaired by reason of this act: *Provided*, That all rights of creditors and all liens upon the property of either of said former corporations shall be preserved unimpaired, and the respective former corporations may be deemed to continue in existence, in order to preserve the same; and all debts, liabilities and duties of either of said former corporations shall thenceforth attach to said consolidated corporation, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

Sec. 113.—Dissenting Stockholders of Corporation Having Franchise for Public Use May Petition Court for Appointment of Appraisers.

If any of the corporations so authorized to merge or consolidate shall have the right to exercise any franchise, for public use, and any stockholder thereof not voting in favor of such agreement shall dissent therefrom and shall refuse or neglect to convert his stock into the stock of such consolidated corporation, or to dispose thereof in the manner and on the terms specified in such agreement, such dissenting stockholder or such consolidated corporation may, at any time within thirty days after the adoption and filing of the agreement of consolidation, apply by petition to the district court of the county in which the chief office of the corporation whose stockholders shall so dissent or neglect, was or is located, on reasonable notice to be prescribed by said court to said consolidated corporation, or to such dissenting stockholder, as the case may be,

for the appointment of three disinterested appraisers to appraise the full market value of his stock, without regard to any depreciation or appreciation thereof in consequence of the said merger or consolidation, and whose award (or that of a majority of them) when confirmed by the said court, shall be final and conclusive on all parties, and said consolidated corporation shall pay to such stockholder the value of his stock as aforesaid; and on receiving such payment, or on a tender thereof, or in case of any legal disability or absence from the territory, on the payment of such award into said court, said stockholder shall transfer his stock to the said consolidated corporation to be disposed of by the directors thereof, or to be retained for the benefit of the remaining stockholders; and in case the said award is not so paid within thirty days from the filing of said award and confirmation by said court, and notice thereof to be given in the manner aforesaid unto said stockholder of said consolidated corporation, the amount of the award shall be a judgment against said corporation, and may be collected as other judgments in said court are by law collectible.

Sec. 114.—On Merger or Consolidation Dissenting Stockholder May Have Stock Appraised.

Upon the merger or consolidation of any two or more corporations, which do not have the right to exercise any franchise for public use, into a single corporation, as provided by this act, if any stockholder in any of said merging or consolidating corporations not voting in favor of such agreement of merger or consolidation, shall dissent therefrom and shall refuse or neglect to convert his stock into the stock of such consolidated corporation, or to dispose thereof in the manner and on the terms specified in such agreement, such dissenting stockholder may, at any time within thirty days after the adoption and filing of the agreement of consolidation, apply by petition to the district court of the county in which the chief office of the corporation, whose stockholder shall so dissent or neglect, was or is located, on reasonable notice to be prescribed by said court to said consolidated corporation for the appointment of three disinterested appraisers to appraise the full market value of his stock without regard to any depreciation or appreciation thereof in consequence of the said merger or consolidation; and thereafter the proceedings and the rights and remedies of the respective parties shall be the same as is provided in this act in the case of the appointment of appraisers to appraise the market value of stock of dissenting stockhold-

ers of corporations enjoying the right to exercise any franchise for public use; and the judgment upon the award as provided for therein, shall be a judgment against said consolidated corporation, and shall be a lien on all the property and assets acquired by the consolidated corporation from the corporation so merged, subject only to such liens as existed against said property and assets at the time of such merger or consolidation.

Sec. 115.—Consolidated Corporation Authorized to Issue Bonds and Mortgage Property.

When two or more corporations are merged or consolidated the consolidated corporation shall have power and authority to issue bonds or other obligations, negotiable or otherwise, and with or without coupons or interest certificates thereto attached, to an amount sufficient with its capital stock to provide for all the payments it will be required to make or obligations it will be required to assume, in order to effect such merger or consolidation; to secure the payment of which bonds or obligations it shall be lawful to mortgage its corporate franchises, rights, privileges and property, real, personal and mixed; the consolidated corporation may purchase, acquire, hold and dispose of the stocks of other corporations of this territory or elsewhere, and exercise in respect thereto all the powers of stockholders thereof, and may issue capital stock, either common or preferred, or both, to such an amount as may be necessary, to the stockholders of such merging or consolidating corporations in exchange or payment for their original shares, in the manner and on the terms specified in the agreement of merger or consolidation; which may fix the amount and provide for the issue of preferred stock based on the property or stock of the merging or consolidating corporations conveyed to the consolidated corporation, as well as upon money capital paid in.

Corporations organized under the laws of other states and territories may also be merged with corporations organized under the laws of this territory, in accordance with the provisions of this act.

ARTICLE 12.—LOST CERTIFICATES OF STOCK.

Sec. 116.—New Certificate of Stock May Be Issued for Certificates Lost or Destroyed.

Every corporation may issue a new certificate of stock in the place of any certificate therefore issued by it, alleged to have been lost or destroyed, and the directors authorizing such issue of a new certificate may, in their discretion, require the

owner of the lost or destroyed certificate, or his legal representatives, to give the corporation a bond, in such sum as they may direct, as indemnity against any claim that may be made against such corporation; a new certificate may be issued without requiring any bond when, in the judgment of the directors, it is proper so to do.

Sec. 117.—Proceedings in Case of Refusal to Issue New Certificate of Stock.

Whenever any corporation shall have refused to issue a new certificate of stock in place of one theretofore issued by it, or by any corporation of which it is the lawful successor, alleged to have been lost or destroyed, the owner of the lost or destroyed certificate, or his legal representatives, may apply to the district court of the county in which the principal office of the corporation is located for an order requiring the corporation to show cause why it should not be required to issue a new certificate of stock in place of the one so lost or destroyed; such application shall be by petition, duly verified, in which shall be stated the name of the corporation, the number and date of the certificate, if known or ascertainable by the petitioner, the number of shares of stock named therein and to whom issued, and a statement of the circumstances attending such loss or destruction; thereupon said court shall make an order requiring the corporation to show cause, at a time and place therein mentioned, why it should not be required to issue a new certificate of stock in place of the one described in the petition; a copy of the petition and order shall be served upon the president or other head officer of the corporation, or on the cashier, secretary or treasurer thereof, personally, at least ten days before the time designated in the order.

Sec. 118.—Court May Proceed in Summary Manner.

At the time and place specified in the order, and on proof of due service thereof, the court shall proceed in a summary manner and in such mode as it may deem advisable to hear the proof and allegations offered in behalf of the petitioner, or the corporation, or other interested party, relative to the subject matter of inquiry, and if upon such inquiry, the court shall be satisfied that the petitioner is the lawful owner of the number of shares of the capital stock, or any part thereof, described in the petition, and that the certificate therefor has been lost or destroyed and cannot, after due diligence, be found, and that no sufficient cause has been shown why a new certificate should not be issued in place thereof, it shall make an order requiring the corporation or other party, within such time as

shall be therein designated, to issue and deliver to the petitioner a new certificate for the number of shares of the capital stock of the corporation, which shall be specified in the order as owned by the petitioner, and the certificate for which shall have been lost or destroyed; in making the order the court shall direct that the petitioner deposit such security, or file such bond in such form and with such security as to the court shall appear sufficient to indemnify any person other than the petitioner who shall thereafter appear to be the lawful owner of such certificate stated to be lost or stolen; and the court may also direct publication of such notice, either preceding or succeeding the making of such final order, as it shall deem proper; any person who shall thereafter claim any rights under the certificate so lost or destroyed, shall have recourse to said indemnity, and the corporation shall be discharged from all liability to such person by reason of compliance with the order; and obedience to said order may be enforced by the court by attachment against the officers of the corporation, on proof of their refusal to comply with the same.

ARTICLE 13.—FEES ON FILING CERTIFICATES; SUNDRY PROVISIONS.

Sec. 119.—Fees on Filing Certificates.

On filing any certificate or other paper; relative to corporations, domestic or foreign (including all corporations which are required to file such certificate) in the office of the secretary of the territory, the following fees and taxes shall be paid to the secretary of the territory: For certificate of incorporation, ten cents for each thousand dollars of the total amount of capital stock authorized, but in no case less than twenty-five dollars; increase of capital stock, ten cents for each thousand dollars of the total increase authorized, but in no case less than twenty dollars; consolidating and merger of corporations, ten cents for each thousand dollars of capital authorized, beyond the total authorized capital of the corporations merged or consolidated, but in no case less than twenty dollars; extension or renewal of corporate existence of any corporation, the same as required for the original certificate of organization by this act; dissolution of corporation, change of name, change of nature of business, amended certificates of organization (other than those authorizing increase of capital stock), decrease of capital stock, increase or decrease of par value or number of shares, twenty dollars; for filing a certificate to change the location of principal office, five dollars; for filing list of offi-

cers and directors, one dollar; for all certificates not hereby provided for, five dollars: *Provided*, That a fee of five dollars shall be required to be paid by any religious or charitable association or society, or educational association, having no capital stock for filing their certificates of incorporation, and the usual fees for copies of the same.

Sec. 120.—Disposition of Fees.

The secretary of the territory shall turn over to the territorial treasurer the fees collected under the provisions of this act in the manner required by law: *Provided*, That the secretary shall retain for his own use the amount of such fees as are now provided by law; and for certified copies of documents he shall receive ten cents per folio of one hundred words including the certificate, to be retained for his own use and benefit.

Sec. 121.—Surviving Incorporators May Designate Others for Organization.

When one or more of the incorporators of any corporation created by or under any general law of this territory, shall have died before the corporation shall have been organized, pursuant to law, the survivor or survivors may in writing designate other persons who may take the place and act instead of those deceased, in the organization; and the organization so effected by their aid shall be as effectual in law as if it had been effected by all the original incorporators.

Sec. 122.—Mutual Association May Create Capital Stock.

The members of any mutual association heretofore or hereafter incorporated, may provide for and create a capital stock of such corporation, upon the consent in writing of all the members of the corporation, and may provide for the payment of such stock, and fix and prescribe the rights and privileges of the stockholders therein.

Sec. 123.—Secretary of the Territory to Compile and Publish List of Corporations.

The secretary of the territory shall annually compile from the records of his office, and publish a complete list, in alphabetical order, of the original and amended certificates of incorporation filed during the preceding year, together with the location of the principal office of each in this territory, the name of the agent in charge thereof, the amount of the authorized capital stock, the amount with which business is to be commenced, the date of filing the certificate and the period for which the corporation is to continue,

Sec. 124.—Corporation May Lease Its Property and Franchises to Another Corporation.

Any corporation of this territory may hereafter, with the assent of two-thirds in interest of its stockholders, either in person or by proxy, lease its property and franchises to any corporation, and every corporation of this territory is hereby authorized to take the lease or any assignment thereof, for such terms and upon such conditions as may be agreed upon, and any lease or assignment, or both, heretofore made, are hereby validated: *Provided, However,* That nothing herein contained shall be construed to authorize any corporation which is now specifically prohibited by law or by its certificate of incorporation from leasing its property or franchises to do so.

Sec. 125.—Territorial Taxes Must Be Paid Before Dissolution

No corporation organized under any law of this territory shall be dissolved by its stockholders until all taxes levied upon or assessed against such corporation under the laws of the Territory of New Mexico shall have been fully paid, and satisfactory proof to that effect shall have been annexed to and filed with the certificate of dissolution.

Sec. 126.—Shares of Stock May Be Taken and Sold on Execution.

Any share or interest of any corporation that is or may hereafter be incorporated under the authority of this territory, or incorporated or established under the authority of the United States, belonging to the defendant in execution, may be taken and sold by virtue of such execution, in the same manner as goods and chattels. The officer to whom such writ is directed shall levy the same by serving a copy of said writ upon the secretary, clerk, cashier, or other officer of the corporation having charge of its books, together with a notice that the stock of such corporation held by the defendant in execution named in the writ is levied upon thereunder and the service of such writ and notice as aforesaid shall constitute a valid levy upon all shares of stock in such corporation held by the execution defendant not actually transferred at the time of such service and every subsequent transfer thereof shall be void against the plaintiff in execution or any purchaser at a sale thereunder.

Sec. 127.—Officer Having Custody of Books to Give Certificates to Sheriff.

The secretary, clerk, cashier, or other officer of such corporation, who has at the time the custody of the books of the cor-

poration, shall upon the service of execution upon him as aforesaid, give to the officer having such a writ a certificate of the number of shares or amount of the interest held by the defendant in such company; and if he shall neglect or refuse so to do, or if he shall wilfully give a false certificate thereof, he shall be liable to the plaintiff for double the amount of all damages occasioned by such neglect or false certificate, to be recovered in an action on the case against him.

Sec. 128.—Proceedings When Such Officer Is a Non-Resident.—Notice of Levy.

When the secretary, clerk, cashier, or other officer of any corporation that is or hereafter may be incorporated under the authority of this territory, who has the custody of the books of registry of the stock thereof, shall be a non-resident in this territory, it shall be the duty of the sheriff or other officer, receiving writ of execution issued out of any court of this territory against the goods and chattels of a defendant in execution holding stock in such company, to send by mail a notice in writing, directed to such non-resident, secretary, clerk, cashier, or other officer, at the postoffice nearest his reputed place of residence, stating in such notice that he, the said sheriff or other officer, hold such writ of execution, and out of what court, at whose suit, for what amount, and against whose goods such writ has been issued, and that by virtue of said writ, he, the said sheriff or other officer, siezes and levies upon all the shares of stock of such company held by the defendant in execution on the day of the date of such written notice; and it shall also be the duty of such sheriff or other officer, on the day of mailing such notice, as aforesaid, to affix and set up upon any office or place of business of such company, within his county, a like notice in writing, and on the same day to serve like notice in writing upon the president and directors of said company, or upon such of them as reside in his county, either personally or by leaving the same at their respective places of abode; and the sending, setting up and serving of such notices in the manner aforesaid, shall constitute such levy taken, a valid levy of such writ upon all shares of stock in such company held by the defendant in execution, which have not at the time of the receipt of such notice by the said clerk, cashier or other officer, who has custody of the books of registry of the stock thereof, been actually transferred by the defendant; and thereafter any transfer or sale of such shares by the defendant in execution, shall be void as against the plaintiff in said execution, or any purchaser of such stock at any sale thereunder.

Sec. 129.—Non-Resident Officer to Return Statement and Certificate, Etc., Penalty for Failure, Etc.

That the non-resident clerk, cashier, or other officer in such company, to whom notice in writing is sent, as prescribed in the preceding section, shall thereupon send forthwith, by mail or otherwise, to the officer having such a writ, a statement of the time when he received such notice, and a certificate of the number of shares held by the defendant in such company at the time of the receipt by him of such notice, not actually transferred on the books of said company; and the said sheriff or other officer shall on receipt by him of such certificate, insert the number of such shares in the inventory attached to said writ; and if such clerk, cashier, or other officer in such company, neglect to send such certificate, he shall be liable to the plaintiff for double the amount of all damages occasioned by such neglect or false certificate, to be recovered in an action on the case against him; but the neglect to send, or mis-carriage of such certificate, shall not impair the validity of the levy upon the stock.

Sec. 130.—Writs of Attachment.

Writs of attachment when properly issued may be served upon stock in the same manner as executions are provided to be served herein and shall bind the stock as a levy upon the same, unless dissolved by the court, from the date of service of such writ, in accordance with the preceding sections of this act.

Sec. 131.—Provisions of Act Extended to Special Corporations.

The provisions of this act shall be held applicable to corporations incorporated under the provisions of the following acts:

1. "An act to authorize the formation of companies for the purpose of constructing irrigating and other canals and the colonization and improvement of lands," approved February 24, 1867, and being Sections 468 to 494, inclusive, of the Compiled Laws of 1897, and also including Section 467 of said laws;

2. An act entitled "An Act for the incorporation of building and loan associations," approved February 14, 1887, and all acts amendatory and supplementary thereto;

3. An act entitled "An Act in relation to banks and banking," approved April 3, 1884, and also an act entitled "An Act providing for the organization of saving bank and trust associations," approved February 17, 1887, and all acts amendatory or supplementary thereto;

4. An act entitled "An Act relating to trust companies," approved March 12, 1903; but trust companies may be incorporated under this act as well as under said special act: *But, Provided, However,* That this act shall not be held to divest the corporations incorporated under any of said acts of any rights, privileges or franchises which such corporations now have. And all the provisions of said act as to organization, powers, capital stock, stockholders, liability and suspension shall apply to any company organized under this act and doing business in the Territory of New Mexico.

Sec. 132.—Special Acts Not Repealed.

The acts referred to in the last preceding section shall not be held to be repealed by this act but the provisions of this act and the provisions of said acts shall be construed together as one act, and the general provisions of this act relating to the management, control, reports, amendments, stock liability, levy upon property or corporations, levy and sale of stock, and all other general provisions contained in this act which can be enforced consistently with the provisions of the said special acts hereinbefore referred to shall be held to apply to all such corporations, and such corporations shall have the advantage of any of the provisions of this act: *Provided, However,* That the powers to be exercised by corporations already incorporated under the special acts under which they may be incorporated or by the articles of incorporation, shall not be held to be extended by this provision.

Sec. 133.—Applies to Railroad, Telegraph and Express Companies, How.

This act shall also not be held to affect in any manner the existing laws relating to railroad, telegraph and express companies, except so far as expressly applicable to such corporations: *Provided, However,* That any corporation incorporated under or complying with the provisions of this act, for the discharge of any public duty or utility, requiring the condemnation of private property for a public purpose, may exercise such power and privilege by complying with the existing laws relating to the condemnation of private property for railroads purposes, or any laws subsequently enacted regulating such right and procedure thereunder. All public corporations and boards shall have the same right to exercise such power in the same manner as a corporation for a public purpose, when the powers conferred upon them by law render the acquiring and taking of private property necessary and proper.

Sec. 134.—Other Laws Repealed.

The provisions of the general incorporation act, beginning with Section 411 and ending with Section 456 inclusive, of the Compiled Laws of 1897, be and the same are hereby repealed: *Provided*, That such repeal shall not affect or impair the rights of any corporation heretofore organized or doing business in this territory under the provisions of said act, or any other law of this territory.

Sec. 135.—Publication.

Within 30 days after the filing of the same a certified copy of the certificate of incorporation and all amendments or supplements thereto, and all amended certificates of incorporation, and certificates thereto, and all amended certificates of incorporation, and certificates of stockholders non-liability, shall be published in some newspaper of general circulation in the county where the general place of business of such corporation is designated, and in the case of foreign corporations, in the county wherein resides the agent of such corporation on whom process may be served, and proof of such publication shall be filed with the secretary of the territory within 20 days after the date of the last publication. And upon failure to comply with this provision for a period of 20 days thereafter, such corporation, whether domestic or foreign, shall forfeit the right to do business in this territory and be fined in a sum not less than one hundred dollars for such failure, to be recovered by suit in the name of the territory.

For such publications, and all other publications required under this act, the publisher shall receive not to exceed the fees allowed for publication of notice of pendency of suits, as prescribed by the laws of the territory. Any less rate may be contracted between the parties as they may see fit.

Sec. 136. This act shall take effect and be in force from and after the date of its passage.

CHAPTER 80.

AN ACT AMENDING SECTION 3718, OF THE COMPILED LAWS OF NEW MEXICO OF 1897. *H. B. No. 165; Approved March 15, 1905.*

CONTENTS.

Sec. 1. Section 3718, Compiled Laws of 1897, regarding compounding and dispensing prescriptions, amended. Penalty for permitting unregistered pharmacists to compound and dispense prescriptions.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Section 3718 of the Compiled Laws of 1897 is hereby amended as follows: In the last line of said section strike out the word "five" and insert in lieu thereof the word "twenty-five" and add at the end of said section "and upon a second conviction and proof thereof shall be fined in a sum not less than one hundred dollars nor more than two hundred dollars."

Sec. 2. All acts or parts of acts in conflict with this act are hereby repealed and this act shall be in force and effect from and after the passage.

CHAPTER 81.

AN ACT ENTITLED AN ACT TO AMEND SECTION 1541, OF CHAPTER 1, OF THE COMPILED LAWS OF 1897, RELATING TO SCHOOL HOUSE BOND LEVIES. *H. B. No. 12; Approved March 15, 1905.*

CONTENTS.

Sec. 1. Section 1541, Chapter 1, Compiled Laws of 1897, regarding the issuance of bonds by school districts, amended. School directors empowered to issue bonds. Maturity. Rate of interest.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section No. 1541 of Chapter 1 of the Compiled Laws of 1897 be amended so as to read as follows, to-wit:

That school directors shall have power and authority to borrow money for the purpose of erecting and completing school house by issuing negotiable bonds of the district, to

run any period of not less than twenty years nor exceeding thirty years, drawing interest at the rate of not to exceed six per centum per annum, with interest payable semi-annually or annually, at such place as the board of directors issuing the same may direct, which said indebtedness shall be binding and obligatory on the school districts for the use of which said loan shall be made; but no district shall permit a greater outstanding indebtedness than an amount equal to four per centum of the assessed value of the property of such district.

Sec. 2. That an emergency exists and that this act shall take effect from and after its passage.

CHAPTER 82.

AN ACT TO AMEND SECTION 1746 OF THE COMPILED LAWS OF 1897 OF THIS TERRITORY, AND TO PROVIDE A MANNER OF MAKING CLAIMS FOR EXEMPTIONS IN JUSTICE'S COURTS.
C. B. No. 63; Approved March 15, 1905.

CONTENTS.

- Sec. 1. Section 1746, Compiled Laws of 1897, regarding exemptions, amended.
Exemptions to apply to all courts. Proviso.
Sec. 2. Justice of the peace to issue notice of claim of exemption.
Sec. 3. Service of notice. Proviso.
Sec. 4. Trial of issue raised by affidavit for exemption.
Sec. 5. Appeal from judgment of exemption.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1746 of the Compiled Laws of 1897 be and the same is hereby amended so as to read as follows: Section 1746. That the provisions contained in all the sections of the Compiled Laws of 1897, from section 1737 to 1744 inclusive, relative to exemptions shall apply to all the courts of this territory, including justices of the peace: *Provided, However,* That in courts of justices of the peace, the person entitled to any such exemption, his agent or attorney shall make claim for the same by making an affidavit sworn to before any person authorized to administer oaths, and filing the same with the justice of the peace before whom the action is pending, or who issued the writ, or other process by which such exempt property is sought to be levied upon or taken, which affidavit shall set forth the particular property or debt claimed to be exempt, and the grounds of such exemption

under any one or more of said statutes, and may make such claim at any time before sale of the property or before money garnisheed shall have been paid over to the plaintiff in the writ.

Sec. 2. Upon the making and filing of the affidavit provided for in the foregoing section of this act, such justice shall issue a notice signed by him officially to the effect that claim has been made of the property specified in the affidavit, as exempt, and shall in such notice fix a time for hearing such claim not less than one nor more than three days after service of the notice as hereinafter provided.

Sec. 3. The notice provided for in section 2 of this act shall be served upon the plaintiff in the writ or in the action pending, or upon his agent or attorney by any officer authorized to serve process in such justice court, which shall be so served and returned in the same manner as a summons; or such notice may be served by the person claiming such exemption, his agent or attorney: *Provided*, That if such notice be served by any person other than an officer herein provided for, proof of such service shall be made by the affidavit of the person making the service.

Sec. 4. Upon the return day of the notice provided for in section 3 of this act, the plaintiff in the action or in the writ may controvert the allegations of the affidavit for exemption by denying the truth of the same in its material parts; and thereupon a trial of the issues so made shall be had in the same manner as other causes are tried in justices courts, and judgment shall be rendered by the justice in the same manner as judgments are rendered in such courts, and the justice may when necessary, stay the execution or other process issued until such trial can be had before sale of the property claimed as exempt.

Sec. 5. If the judgment upon the exemption be rendered after the time for an appeal from the judgment upon the main issue in the suit has expired, then either party aggrieved by the judgment of exemption may appeal therefrom to the district court of the county in the same manner that other appeals are taken from justice courts, and for the purposes of such appeals, such judgments of exemption shall be deemed final orders. But if such judgment of exemption be rendered before judgment upon the main issue in the cause, then the judgment upon the exemption shall be deemed interlocutory, and shall be appealable only by appealing from the judgment on the main issue in the cause. By the "judgment upon the main issue in the cause" as used herein is meant the judgment upon the cause of action sued upon in the cause.

Sec. 6. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER 83.

AN ACT WITH REFERENCE TO THE DOING OF ASSESSMENT WORK UPON MINING CLAIMS. C. B. No. 65; *Approved* *March 15, 1905*

CONTENTS.

- Sec. 1. Order permitting parties out of possession to enter upon mining claim, to perform annual assessment work.
Sec. 2. Performance of assessment work, prevents relocation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter in any suit or action pending in any of the courts of this territory, involving the right to the possession or title of any lode or placer mining claim located under the mining laws, and upon which it is necessary to do the annual assessment work to prevent the same from becoming forfeited and subject to relocation, the party or parties to any such suit out of possession, upon petition to the court in which suit or action is pending, showing that such annual assessment work has not been done on or before the first day of November in the year during which such work is required to be done, shall be entitled to an order as of course in such suit or action, permitting such party or parties to enter in and upon such mine or mining claims, with their agents and laborers, and to do and perform such annual assessment work to prevent the said mining claim or claims from becoming subject to relocation: *Provided*, That in the doing of such work, no ore shall be removed from the boundaries of such mining claim.

Sec. 2. Upon the doing of any assessment work, as provided in section 1 of this act, the said mining claim or claims shall not be subject to relocation for failure to do the annual assessment work, as against any of the parties to such suit or action.

Sec. 3. This act shall be in force and effect from and after its passage.

CHAPTER 84.

AN ACT TO COMPEL CERTAIN PRISONERS TO DO PUBLIC WORK
IN INCORPORATED CITIES AND TOWNS. *C. B. No. 87; Ap-
proved March 15, 1905.*

CONTENTS.

- Sec. 1. Prisoners to do public work for incorporated cities and towns.
Sec. 2. Control of prisoners doing work.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

Section 1. That every person convicted of the violation of any ordinance of any incorporated city or town of this territory, and sentenced to imprisonment therefor, may, during the term of such sentence, be compelled to work upon the public streets of such city or town or to do any other kind of public work within such city or town, that may be required by the mayor thereof.

Sec. 2. All such persons while engaged in such work shall be in the custody of and under control of the marshal of such city or town, or of such other officer as the mayor may direct. In case any such person shall be confined in any county jail it shall be the duty of the sheriff or jailer to deliver him to the marshal of such city or town whenever he shall receive from the mayor a written order to that effect, but such prisoner shall be returned to such county jail each night.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 85.

AN ACT TO AMEND SECTION 2, OF CHAPTER 57, OF THE ACTS OF THE THIRTY-FIFTH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, *C. B. No. 88; Approved March 15, 1905.*

CONTENTS.

- Sec. 1. Section 2, Chapter 57, Laws of 1903, fixing penalty for territorial or county officers, who become sureties for others, amended. Removal by the governor.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 2 of Chapter 57 of the Acts of the Thirty-fifth Legislative Assembly of the Territory New Mexico, entitled "An Act prohibiting territorial or county officers from becoming sureties for others," be and it is hereby amended by adding at the end thereof the words "by the governor of the territory."

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 86.

AN ACT TO PROHIBIT THE RIDING OF BICYCLES UPON SIDEWALKS OF UNINCORPORATED TOWNS. *C. B. No. 104; Approved March 15, 1905.*

CONTENTS.

- Sec. 1. Bicycle riding on sidewalks of unincorporated towns, prohibited.
Sec. 2. Violation. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. It shall be unlawful, in any of the unincorporated towns of this territory, to ride upon bicycles upon the sidewalks of streets in such towns.

Sec. 2. Any one violating the provisions of this act shall, upon conviction before any justice of the peace of the precinct in which said unincorporated town is located, be fined in any sum not exceeding five dollars, for each offense.

Sec. 3. This act shall take effect sixty days from and after

its passage.

CHAPTER 87.

AN ACT TO AUTHORIZE THE ISSUANCE OF BONDS BY THE COUNTY OF LUNA FOR THE PURPOSE OF PAYING OFF AND DISCHARGING ITS PROPORTION OF THE DEBT OF THE ORIGINAL COUNTIES OF DONA ANA AND GRANT AS ADJUSTED. C. B. No. 131; Approved March 15, 1905.

CONTENTS.

- Sec. 1. Chapter 38, Laws of 1901, and Chapter 79, Laws of 1903, providing for adjusting the indebtedness of Luna county to Grant county, ratified.
- Sec. 2. Indebtedness of original Dona Ana county agreed to be assumed by Luna county, ratified.
- Sec. 3. County commissioners to issue bonds. Denomination. Rate of interest. Maturity.
- Sec. 4. Form of bonds. Coupons attached.
- Sec. 5. County commissioners to keep a record of bonds issued.
- Sec. 6. Tax levy to pay interest on bonds.
- Sec. 7. Sinking fund. Cancellation of bonds.
- Sec. 8. County commissioners of Luna county to deliver bonds to county commissioners of Dona Ana and Grant counties.
- Sec. 9. Luna county may purchase outstanding bonds of Grant and Dona Ana counties. Proviso.
- Sec. 10. County commissioners to levy tax to pay interest upon debt. Payment of interest.
- Sec. 11. When liability of Luna county to cease.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the adjustment of the indebtedness of the original County of Grant to be assumed by the County of Luna under the provisions of the act creating the said County of Luna, passed by the 34th legislative assembly, and Chapter 79 of the acts of the 35th legislative assembly, entitled "An Act to provide for adjusting the indebtedness of Luna county to Grant county," approved March 17, 1903, by which said adjustment the indebtedness of the original County of Grant to be assumed by the County of Luna was fixed at the sum of \$51,654.83, be and the same is hereby ratified and declared to be the amount of said indebtedness to be assumed and paid by the said County of Luna.

Sec. 2. And the sum of \$9,671.17, being the amount of the bonded indebtedness of the original County of Dona Ana agreed to be assumed by the County of Luna in accordance with the adjustment of the said indebtedness made by the county commissioners of the said County of Dona Ana and the said County of Luna, be and the same is also hereby ratified and the said amount fixed as the proportion of the bonded

indebtedness of the original County of Dona Ana to be assumed by the said County of Luna.

Sec. 3. For the purpose of paying off and discharging the said indebtedness, the county commissioners of the said County of Luna are hereby authorized and empowered in the name of the said county, to issue, sell and dispose of coupon bonds of the said county for the amount of the said indebtedness of the said Counties of Grant and Dona Ana and assumed by the said County of Luna under the terms of this act; which said bonds shall be of the denomination of one thousand dollars each, and shall bear interest at the rate of five per centum per annum, payable on the first days of July and January of each year, both principal and interest payable in United States gold coin of the present weight and fineness, at such place as may be designated in said bonds, and all of said bonds shall be payable thirty years after date, with the option to the county to pay them at any time after twenty years from their date.

Sec. 4. All the bonds issued under the provisions of this act shall be numbered consecutively, beginning with number one, and shall be signed by the chairman of the board of county commissioners and attested by the probate clerk, ex-officio clerk of said board, under the seal of the county. The county commissioners shall prescribe the date and form of such bond or bonds, and all coupons shall be signed by or lithographed with the signature of the chairman of the board of county commissioners and by the treasurer of said county; and the coupons attached to each bond shall bear the same number as the bond to which they are attached and shall show the date of maturity of such coupon bonds.

Sec. 5. The county commissioners of Luna county issuing bonds under the provisions of this act, shall provide a book and shall register therein, in the order in which they are issued, the number, date and amount of each bond so issued, and the time when the same shall become due, together with the name of the person to whom issued; and they shall likewise keep a memorandum or record of all bond or bonds at any time taken up and paid by the treasurer, and all bond or bonds shall be registered on the back thereof, by the treasurer of said county, who shall certify that such bond or bonds have been regularly issued in accordance with the laws of the Territory of New Mexico.

Sec. 6. It shall be the duty of the county commissioners of the said County of Luna to levy each year, at the time of making the levy of other taxes, a tax sufficient in amount, and no more than is sufficient, to pay the interest on said bonds for

each year, for the period of twenty years; such taxes shall be kept separate from the taxes levied for other county purposes, and shall be payable in money and shall be devoted exclusively to the payment of such interest.

Sec. 7. After the expiration of twenty years from the date of the issuance of said bonds and in the first fiscal year thereafter, and annually thereafter until paid, the county commissioners of said county shall provide a sinking fund by taxation and shall levy a tax equal to at least ten per cent. and not more than twenty per cent. of said bonds in addition to such amount of levy as may be necessary to pay the current interest on said bonds during the remaining ten years and until the said bonds shall mature.

And whenever the sum of one thousand dollars or more shall have accumulated in said sinking fund, it shall be the duty of the treasurer and ex-officio collector of said County of Luna to call in at once, one or more of such bonds to be drawn by lot, for payment and cancellation, and when paid it shall be the duty of the county commissioners to cause said bonds to be cancelled and an entry of such cancellation to be made upon the book in which registry of said bonds is by this act required and kept.

Sec. 8. The said county commissioners are also hereby authorized and empowered to deliver said bonds or so many of them as may be necessary to the county commissioners of the said Counties of Dona Ana and Grant, if the said counties are willing to accept said bonds in discharge of any or all of the said indebtedness hereby assumed and made binding upon the said County of Luna. Said bonds shall only be so delivered in discharge of said indebtedness to said counties at par; or upon the sale of said bonds, the said County of Luna is authorized and empowered, through its board of county commissioners, to pay the proceeds of the said bonds in discharge of so much of the said indebtedness due to the said Counties of Grant and Dona Ana, and if said indebtedness is not settled before the maturity of the outstanding bonds of the said Counties of Grant and Dona Ana, which were part of the indebtedness taken into account at the time that the said adjustment of the said indebtedness between the said counties and the said County of Luna was made, the said Counties of Grant and Dona Ana shall accept the cash proceeds of said bonds and use the same in taking up any bonds so outstanding and maturing.

Sec. 9. The said County of Luna is hereby authorized and empowered through its board of county commissioners, to purchase any of the outstanding bonds of the Counties of Grant

and Dona Ana at not more than par value thereof, and in case of such purchase, the bonds so purchased shall be delivered to the said Counties of Grant and Dona Ana and accepted by them and credited upon the said indebtedness assumed and to be paid by the said County of Luna, as aforesaid: *Provided, However,* This provision shall only apply to bonds of the said Counties of Grant and Dona Ana that were outstanding and taken into consideration in adjusting the said indebtedness between the said Counties of Luna, Grant and Dona Ana, and for the purpose of acquiring bonds of the said Counties of Grant and Dona Ana, as herein last before provided for, the said board of county commissioners of the said County of Luna is hereby authorized to exchange the said bonds or any of them by this act authorized to be issued for the outstanding bonds of the said Counties of Grant and Dona Ana: *Provided,* That no less than the par value of the bonds hereby authorized to be issued by the County of Luna shall be received in making such exchange in the bonds of the said Counties of Grant and Dona Ana.

Sec. 10. Until the said indebtedness shall be adjusted by the sale of said bonds, or as otherwise hereinbefore provided, it shall be the duty of the county commissioners of the said County of Luna to levy each year, at the time of making the levy of other taxes, a tax sufficient in amount and not more than is sufficient to pay six per cent. interest upon the said indebtedness adjusted between the said County of Luna and the said Counties of Grant and Dona Ana and by this act validated and assumed by the said County of Luna; and such taxes shall be kept separate from the taxes levied for other county purposes and the said interest to be paid from said levy of said per cent. upon said indebtedness shall be paid to the treasurers, respectively, of the said Counties of Grant and Dona Ana until the said indebtedness shall be discharged in one or more of the ways herein provided.

Sec. 11. Upon the final discharge and payment of the said indebtedness as fixed by sections 1 and 2 of this act, and in the manner provided for in this act, the said County of Luna shall not be liable for any further or other claim or indebtedness of any kind or description on the part of the said Counties of Grant and Dona Ana: *Provided,* That the provisions of this section shall in no manner invalidate any claims or judgments against the County of Luna on account of floating indebtedness, existing in the Counties of Grant and Dona Ana at the time of the creation of said County of Luna, and of which said County of Luna has now settled or is liable for its proportionate part of such floating indebtedness.

Sec. 12. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force from and after the date of its passage.

CHAPTER 88.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ISSUANCE OF CERTIFICATES OF INDEBTEDNESS FOR THE PAYMENT OF APPROPRIATIONS FOR THE RELIEF OF FLOOD SUFFERERS, THE BUILDING OF DYKES, AND FOR OTHER PURPOSES, C. B. NO. 40; APPROVED FEBRUARY 4, 1905." C. B. No. 136; *Approved March 15, 1905.*

CONTENTS.

Sec. 1. Section 1, Chapter 3, Laws of 1905, regarding the issuance of certificates of indebtedness account of flood sufferers, amended. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1 of Chapter 3 of the Laws of 1905 be amended by adding thereto the following:

"Provided, That in the event that the territorial treasurer be unable to market the certificates of indebtedness as herein provided, he is hereby authorized to make loans as now prescribed by law for other loans to the amount as authorized herein for the purpose of making this fund at once available: *Provided, Further,* That in the contingency aforesaid it shall be lawful for the territorial treasurer, in his discretion, to transfer to the 'Flood Sufferers' Relief Fund' hereby created, from any sinking funds or any other available funds in the territorial treasury, an amount sufficient to fulfill the requirements of this act; it being hereby expressly understood and provided that the sum equivalent to the amount so transferred shall be reimbursed to the treasury of the territory and to the proper funds therein from the amounts produced by the levies authorized by this act as hereinafter provided."

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 89.

AN ACT FIXING THE TIME FOR HOLDING THE TERMS OF THE DISTRICT COURT IN CERTAIN COUNTIES. *C. S. for A. C. B. No. 60; Approved March 15, 1905.*

CONTENTS.

- Sec. 1. Term of court in third judicial district, Grant, Dona Ana, Sierra and Socorro counties.
Sec. 2. Term of court in sixth judicial district, Lincoln, Otero, Guadalupe and Quay counties.
Sec. 3. All writs issued by district court returnable at the times and places designated in section 1.
Sec. 4. Act not to affect sixth judicial district until July 1, 1905.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The regular terms of the district court in the third judicial district of the Territory of New Mexico shall hereafter be commenced and held as follows:

In the County of Grant at the county seat of said county, commencing on the first Mondays of March and September in each year;

In the County of Dona Ana at the county seat of said county, commencing on the first Mondays of April and October of each year;

In the County of Sierra at the county seat of said county, commencing on the first Mondays of May and November of each year;

In the County of Luna at the county seat of said county, commencing on the third Mondays of May and November of each year; and

In the County of Socorro at the county seat of said county, commencing on the first Mondays of June and December of each year.

Sec. 2. The time for holding the terms of the district court in and for the sixth judicial district of the Territory of New Mexico, shall be as follows:

The next regular term of the sixth judicial district court within and for the County of Lincoln, shall be commenced and held at the county seat of said county on the second Monday in April, 1905, and thereafter the regular terms of said court for said county, shall be commenced and held on the second Mondays of May and November of each year:

The regular term of said district court shall hereafter be commenced and held as follows:

In the County of Otero at the county seat of said county, commencing on the first Mondays of March and September of each year;

In the County of Guadalupe at the county seat of said county, commencing on the first Mondays of April and October of each year;

In the County of Quay at the county seat of said county, commencing on the fourth Mondays of April and October of each year.

Sec. 3. Every writ, summons, recognizances, venire, subpoena or other process whatever which has been issued or taken out or which may be hereafter issued or taken out from the district court of any county in said district, shall be returnable at the times and places designated in section 1 of this act, and shall have the same force and effect as if the same had been made returnable at the time and place designated in said section.

Sec. 4. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect and be in force from and after its passage: *Provided*, That this act, in so far as same applies to the time for holding terms of court in the sixth judicial district, shall not take effect until the first day of July, A. D., 1905.

CHAPTER 90.

AN ACT TO DEFINE THE PREFERENCE RIGHTS OF EX-UNITED STATES SOLDIERS, THEIR WIDOWS OR HEIRS, WITH REFERENCE TO LEASING SECTIONS 16 AND 36, LANDS OF THE TERRITORY OF NEW MEXICO. C. B. No. 94; Approved March 16, 1905.

CONTENTS.

Sec. 1. Section 30, Chapter 74, Laws of 1899, regarding the occupation and improvement of school sections, amended. Preference rights of occupants of school sections.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 30 of an act of the 33rd Legislative Assembly of the Territory of New Mexico entitled "An Act establishing a board of public lands, assigning their duties

and for leasing and managing public lands and funds," approved March 16, 1899, as amended by section 12 of an act, entitled an act to amend an act, entitled "An Act establishing a board of public lands assigning their duties and for leasing and managing public lands and funds," approved March 20, 1901, be and the same is hereby amended to read as follows: "Section 30. That whenever any school section, that is, section 16 and 36, or any other portion of the public domain which may be selected or segregated for the purposes of this act, is occupied by any person or persons, such person or persons having made improvements thereon, such person or persons shall have the preference right, to lease such section or part thereof, so occupied and improved, and if any such person or persons is, or are an ex-soldier of the civil war, his widow, heir or heirs, and may heretofore have cultivated, or improved said lands, such ex-soldier, his widow, heir or heirs, shall have the preference right to lease such sections, or the whole, or any part of which he, she or they may have cultivated and improved, whether such ex-soldier, his widow, heir or heirs, shall have actually lived upon said land or not. And when the same may be sold or offered for sale, such person or persons shall have the preference right of purchase hereof: *Provided*, A claim for such right shall be filed with the commissioner of public lands within 30 days of the approval by the secretary of the interior of the selection of the said land, or within ninety days after the approval of this act, in case of school section: *And Provided, Further*, Whenever any school section or any part thereof, or any portion of the public domain which may be selected and segregated for the purpose of this act, and which may be occupied or used as a cemetery or burial ground by any person or persons, or community, shall have the preference right to purchase the same at one dollar and twenty-five cents per acre, and said section or parts thereof so used, shall not be leased under the provisions of this act, except for cemetery purposes for the person or community occupying the same for such purpose.

Sec. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 91.

AN ACT TO PREVENT INJURY TO DITCHES, PIPE LINES, RESERVOIRS AND THE TAKING OF AND BEFOULING OF WATERS THEREFROM. C. B. No. 95; Approved March 16, 1905.

CONTENTS.

- Sec. 1. Wilfull and malicious injury of ditches and reservoirs, a misdemeanor. Penalty.
- Sec. 2. Contamination of water in reservoirs, a misdemeanor. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any person who shall wilfully and maliciously cut, break or injure, or who shall by shooting or by damming or obstructing the same cause to break, any ditch, flume, pipe line, or reservoir, or any of the attachments or fixtures used in connection therewith, shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars and more than fifty dollars, or by confinement in the county jail for not more than sixty days, or by both such fine and imprisonment in the discretion of the court trying the case, except in cases where such pipe line or reservoir is used for the purpose of supplying water to any community, village, town or city for domestic purposes, in which event the person committing such offense shall be punished by a fine not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty, nor more than sixty days, or by both such fine and imprisonment in the discretion of the court trying the case.

Sec. 2. Any person who shall bathe in, or wilfully cast any filth in any reservoir used for supplying water for domestic use, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten, or not more than twenty-five dollars.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall take effect from and after its passage.

CHAPTER 92.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE THE FORMATION OF COMPANIES FOR THE PURPOSE OF CONSTRUCTING IRRIGATING AND OTHER CANALS AND THE COLONIZATION AND IMPROVEMENT OF LANDS." *C B. No. 107; Approved March 16, 1905.*

CONTENTS.

Sec. 1. Section 481, Compiled Laws of 1897, regarding the dissolution of corporations, amended. Dissolution of irrigation corporations.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That section 14 of an act of the Legislative Assembly of the Territory of New Mexico, approved February 24, 1887, entitled "An Act to authorize the formation of companies for the purpose of constructing irrigating and other canals and the colonization and improvement of lands," and compiled as Section 481 of the Compiled Laws of 1897, be and the same hereby is amended so as to read as follows:

"Any corporation formed under this act or formed under any general law of this territory, the principal business of which has been the construction and maintenance of dams, reservoirs, ditches and canals, and the distribution of water there through for public use, may be disincorporated by a two-thirds vote of all the stockholders, and when such vote shall have been taken, notice thereof shall be given as required by section 9 of this act in relation to assessment on subscription for stock, which notice shall state when and at what place application will be made to the district court or the judge thereof to have such corporation judicially declared dissolved, and at such time and place or at such other time and place to which said matter may be adjourned by the court or judge, such court or judge may hear evidence touching the matter, and if satisfied that all debts and liabilities of such corporation have been paid or that the same can be paid, settled, satisfied or compromised by the sale of the tangible assets of such corporation, and that the requisite vote in favor of dissolution has been duly given, such court or judge shall enter an order declaring the corporation dissolved, and thereafter the directors or trustees of such corporation shall sell and dispose of the tangible property thereof, or such portion of the same as may be necessary to liquidate the indebtedness of the company, and

apply the proceeds realized from such sale to the payment, satisfaction or compromise of the indebtedness of such corporation, the balance remaining to be distributed to the stockholders thereof in accordance with section 15 of this act.”

CHAPTER 93.

AN ACT TO AMEND SEC. 2582 OF THE COMPILED LAWS OF 1897, THE SAME IN REGARD TO SOLICITOR GENERAL AND DISTRICT ATTORNEYS. C. B. No. 117; Approved March 16, 1905.

CONTENTS.

- Sec. 1. Section 2582, Compiled Laws of 1897, prohibiting solicitor general or district attorneys from consulting or defending persons accused of crime, amended. Penalty for consulting or defending persons accused of crime. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 2582 of the Compiled Laws of 1897, be amended so that the same would read as follows:

If the solicitor general or any district attorney shall consult with any accused defendant, or in any other manner shall aid the defense of any person accused of any crime or misdemeanor in this territory, he shall be fined in the sum of not less than five hundred dollars (\$500) and shall be removed from office by judgment of the court if convicted of the charge.

Provided, Further, That said solicitor general or district attorney are authorized and should be allowed by the judge of the district court to defend their cases already on the docket of said court, on which appears on said docket that said solicitor general or district attorney were the attorneys of said cases prior to the appointment of said solicitor general or district attorneys.

Provided, Further, That where it appears in the record of the court that the solicitor general or district attorney was the attorney in some cases prior to the appointment of the said solicitor general or district attorney, in those cases the court shall appoint a lawyer to prosecute in those particular cases, allowing said lawyer the fee which is allowed to solicitor gen-

eral or district attorney, and the solicitor general or district attorney should be allowed to defend in those particular cases.

Provided, Further, That said solicitor general or district attorney shall not be allowed to take any case after he is appointed solicitor general or district attorney in which the territory or county is involved in the litigation in which the law compels the solicitor general or district attorney to prosecute or defend as said solicitor general or district attorney.

This act shall be in full force and effect from and after its passage.

CHAPTER 94.

AN ACT PROVIDING FOR THE ARREST OF PERSONS WHO MAY VIOLATE THE PROVISIONS OF SECTIONS 1133 AND 1134 OF THE COMPILED LAWS OF 1897. C. B. No. 134; Approved March 16, 1905.

CONTENTS.

Sec. 1. Arrest of persons violating sections 1133 and 1134, Compiled Laws of 1897, regarding cruelty to animals.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any person who may be found in the act of violating any of the provisions of section 1133 or of section 1134 of the Compiled Laws of 1897, may be arrested by any other person who may find or see them in the act of committing such violation and the person so arresting the person committing such violation shall be authorized to immediately take him before the nearest justice of the peace and make complaint of such violation and such justice of the peace shall immediately investigate the said cause and either place the party under bail to await the action of the grand jury, or try said cause as in his judgment would be most proper, unless upon such investigation, he shall find the party against whom the complaint will be made, not guilty, in which case, he shall discharge him.

Sec. 2. This act shall be in force and effect from and after its passage.

CHAPTER 95.

AN ACT TO PREVENT AND PUNISH THE RUNNING AND THE USE UPON HORSES, CATTLE, MULES, AND ASSES OF ANY BRAND THAT IS NOT RECORDED IN THE TERRITORIAL BRAND BOOK, IN THE OFFICE OF THE CATTLE SANITARY BOARD. *H. S. for C. B. No. 28; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Unlawful to use unrecorded brand.
- Sec. 2. Seizure of animals with unrecorded brands.
- Sec. 3. Secretary Cattle Sanitary Board to be notified of seizure of animals. Proviso.
- Sec. 4. Notice of sale of stock to be published.
- Sec. 5. Violation of act, a misdemeanor. Penalty. Proviso.
- Sec. 6. What to be deemed evidence of guilt.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. It shall be unlawful for any person, firm or corporation, after the first day of September, 1905, to use any brand for branding any horses, cattle, mules or asses, unless said brand shall have been duly recorded in the office of the cattle sanitary board of New Mexico, and the person, firm, or corporation using such brands holds a certificate from the said cattle sanitary board certifying to the fact of such record.

Sec. 2. Any horses, cattle, mules or asses, found branded with any brands not duly recorded as provided for in section 1 of this act shall be subject to seizure by any peace officer or duly authorized hide or cattle inspector appointed by the cattle sanitary board of New Mexico.

Sec. 3. The person seizing such animal or animals shall at once notify the secretary of the cattle sanitary board of New Mexico, giving the number, age and sex of said animals, together with the brands appearing on them. And if said brands shall prove not to be of record in the territorial brand book, the said secretary shall direct the seized animals to be sold as unclaimed cattle as provided in section 223 of the Compiled Laws of New Mexico of 1897: *Provided*, The cattle sanitary board shall cause such animal or animals to be returned to the owner on payment of the expenses for keeping them upon such owner recording said brands in the territorial brand book within 30 days from the date of seizure by the peace officer or cattle inspector appointed by said cattle sanitary board.

Sec. 4. When any stock shall be seized as provided in this act, and sold as provided in section 223, the secretary of said board, before offering such stock for sale, shall publish a notice of the sale as in case of sales of personal property under chattel mortgage as provided by statute in the county where the same were seized.

Sec. 5. Any person, firm, or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, in any of the courts of this territory having jurisdiction of such cause shall be fined in a sum not more than five hundred dollars or imprisonment for a term not exceeding one year: *Provided*, No such sentence shall be imposed or conviction had in case the owner shall have within thirty days from the seizure of such animal or animals, caused such brands to be recorded, or when such person shall prove that such brands have been used by him for more than one year, and in such case he shall be required to record his brand immediately.

Sec. 6. It shall be deemed evidence of guilt that the person or persons violating this act, shall have been seen placing said brand upon any animal or animals, whether those seized or others, or shall have claimed to any person or persons that he or they owned or claimed such unrecorded brand, or that the person or persons so violating section 1 of this act, were found or seen handling, driving or holding in an enclosure of any kind any animal or animals bearing said unrecorded brand, except for the purpose of roundup.

Sec. 7. All acts or parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after the first day of September, 1905.

CHAPTER 96.

AN ACT TO REGULATE THE PRACTICE OF OPTOMETRY AND FOR THE APPOINTMENT FOR THE BOARD OF EXAMINERS IN THE MATTER OF SAID REGULATION. *H. B. No. 71; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Definition of practice of optometry.
- Sec. 2. Certificate of registration.
- Sec. 3. New Mexico Territory Board of Examiners in Optometry, created. Qualifications. Term.
- Sec. 4. Officers of board. Meetings.

- Sec. 5. Examination by the board. Fees. Registration of persons passing examination.
- Sec. 6. Practitioners of optometry to file affidavit and receive certificate.
- Sec. 7. Exemptions.
- Sec. 8. Certificate to be recorded with county clerk. Fee. Penalty for failure to record certificate.
- Sec. 9. Failure to make application for certificate. Failure to record certificate.
- Sec. 10. Certificate to be conspicuously displayed.
- Sec. 11. Compensation of members of board. Expenses. Board to report annually to the governor.
- Sec. 12. Annual fee to be paid by registered optometrist. Proviso.
- Sec. 13. Revocation of certificate of registration. Proviso.
- Sec. 14. Violation of act, a misdemeanor. Penalty.
- Sec. 15. Jurisdiction of violation of act.
- Sec. 16. To what persons act is applicable.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The practice of optometry is defined as follows, namely: The employment of subjective and objective mechanical means to determine the accommodative and refractive states of the eye and the scope of its functions in general.

Sec. 2. It shall be unlawful for any person to practice optometry in the Territory of New Mexico unless he shall first have obtained a certificate of registration and filed the same, or a certified copy thereof, with the clerk of the county of his residence, all as hereinafter provided.

Sec. 3. There is hereby created a board, whose duty it shall be to carry out the purposes and enforce the provisions of this act, and shall be styled the New Mexico Territory Board of Examiners in Optometry. Said board shall be appointed by the governor as soon as practicable after the passage of this act, and shall consist of three persons, two engaged in the actual practice of optometry, and one physician, oculist, residing in the Territory of New Mexico. Each member of said board shall hold office for a term of three years, and until his successor is appointed. Appointments to fill vacancies caused by death, resignation or removal, shall be made for the residue of such term by the governor. The members of said board, before entering upon their duties shall respectively take and subscribe to the oath required to be taken by other officers, and filed with the clerk of the county in which said member resides, and said board shall have a common seal.

Sec. 4. Said board shall choose at its first regular meeting, and annually thereafter, one of its members president, and one secretary thereof, who severally shall have the power during their term of office to administer oaths and take affidavits, certifying thereto under their hand and the seal of the board.

Said board shall meet at least once in each year at the place selected for headquarters by said board, and in addition thereto whenever and wherever the president and secretary thereof shall call a meeting; a majority of said board shall at all times constitute a quorum. The secretary of said board shall keep a full record of the proceedings of said board, which records shall at all reasonable times be open to public inspection.

Sec. 5. Every person before beginning the practice of optometry in this territory, after the passage of this act shall pass an examination before said board; examination shall be confined to such knowledge as is essential to the practice of optometry. Any person having signified to said board his desire to be examined by them shall appear before them at such time and place as they may designate, and before beginning such examination shall pay to the secretary of said board, for the use of said board the sum of ten dollars, and if he shall successfully pass such examination shall pay the said secretary for the use of said board a further sum of five dollars on the issuance to him of a certificate. All persons successfully passing such examination shall be registered in the board register, which shall be kept by said secretary, as licensed to practice optometry, and shall also receive a certificate of such registration to be signed by the president and secretary of said board which shall be filed as hereinbefore provided.

Sec. 6. Every person who is actually engaged in the practice of optometry in the Territory of New Mexico at the time of the passage of this act shall, within six months thereafter file an affidavit in proof thereof with said board, who shall make and keep record of such person, and shall in the consideration of the sum of five dollars, issue to him a certificate of registration.

Sec. 7. All persons entitled to a certificate of registration under the full provisions of section 6 shall be exempt from the provisions of section 5 of this act.

Sec. 8. Recipients of said certificate of registration shall present the same for record to the clerk and ex-officio recorder of the county in which they reside, and shall pay a fee of fifty cents to the clerk for recording same. Said clerk shall record said certificate in a book to be provided by him for that purpose. Any person so licensed removing his residence from one county to another in this territory, shall, before engaging in the practice of optometry in such other county, obtain from the clerk of the county in which said certificate or registration is recorded, a certified copy of such record, or else obtain a new certificate of registration from the board of examiners.

and shall before commencing practice in such county, file the same for record with the clerk of the county to which he removes, and pay the clerk thereof for recording the same, a fee of fifty cents. Any failure, neglect or refusal on the part of the person holding such certificate or copy of record to file the same for record, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same. Such board shall be entitled to a fee of one dollar for the reissue of any certificate, and the clerk of any county shall be entitled to a fee of one dollar for making and certifying a copy of the record of any such certificate.

Sec. 9. Any person entitled to a certificate as provided for in section 6 of this act, who shall not within six months after the passage thereof make written application to the board of examiners for certificate of registration, accompanied by a written statement signed by him, and duly verified before an officer authorized to administer oaths within this territory, fully setting forth the grounds upon which he claims such certificate, should be deemed to have waived his right to a certificate under the provisions or refusal on the part of any person holding such certificate under the provisions of such section. Any failure, neglect or refusal on the part of any person holding such certificate to file the same for record, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same.

Sec. 10. Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted

Sec. 11. Out of the funds coming into the possession of said board each member thereof may receive as compensation the sum of five dollars for each day actually engaged in the duties of his office, and mileage at three cents per mile for all distances necessarily traveled in going to and coming from the meetings of the board. Such expenses shall be paid from the fees and assessment received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever be paid out of the treasury of the territory. All moneys received in excess of said per diem allowance and mileage, as above provided for shall be held by the secretary as a special fund for meeting the expenses of said board and carrying out the provisions of this act, and he shall give such bonds as the board shall from time to time direct, and the said board shall make an annual report of its proceedings to the governor on the first Monday in January of each

year, which report shall contain an account of all moneys received and disbursed by them pursuant to this act.

Sec. 12. Every registered optometrist who desires to continue the practice of optometry in this state shall annually on such date as the board of optometry may determine, pay to the secretary of said board a registration fee to be fixed by the board, but such shall in no case exceed the sum of two dollars per annum, for which he shall receive a renewal of said registration; and in case of default in such payment, by any person, his certificate may be revoked by the board of examiners, under twenty days' notice of the time and place of considering such revocation. But no certificate shall be revoked for such non-payment if the person so notified shall pay before or at such time of consideration his fee and such penalty as may be imposed by said board: *Provided*, That said board may impose a penalty of five dollars and no more on any one person so notified, as a condition of allowing his certificate to stand: *Provided, Further*, That said board of examiners may collect any such fees by suit.

Sec. 13. Said board shall have power to revoke any certificate of registration granted by it under this act for conviction of crime, habitual drunkenness for six months immediately before a charge to be made, gross incompetency, or contagious or infectious disease: *Provided*, That before any certificate shall be revoked the holder thereof shall have notice in writing of the charge or charges against him, and a day specified in said notice, at least five days after the service thereof, be given a public hearing, and have opportunity to produce testimony in his behalf and to confront the witness against him. Any person whose certificate has been revoked, may after the expiration of ninety days, apply to have the same granted, and the same shall be regranted him, upon a satisfactory showing that the disqualification has ceased.

Sec. 14. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty dollars, nor more than one hundred dollars, or to be confined not less than one month nor more than three months in the county jail, and in default of payment of said fine shall be imprisoned in the county jail at the rate of one day for every two dollars of the fine so imposed, and all fines thus received shall be paid into the common school funds of the county in which such conviction takes place.

Sec. 15. Justices of the peace and the respective municipal courts shall have jurisdiction of violations of this act. It shall

be the duty of the respective district attorneys to prosecute all violations of this act.

Sec. 16. Nothing in this act shall be construed to apply to physicians and surgeons authorized to practice under the laws of the Territory of New Mexico, nor to persons who sell spectacles or eye glasses in the ordinary course of trade and who do not attempt to employ subjective and objective methods means to determine the accommodative and refractive states of the eye.

Sec. 17. This act shall take effect and be in force from and after its passage.

CHAPTER 97.

AN ACT PROVIDING FOR THE APPROPRIATION AND VALUATION OF LANDS AND OTHER PROPERTY TAKEN FOR TELEGRAPH, TELEPHONE, PUBLIC ROAD, RAILROAD AND OTHER PUBLIC USES AND PURPOSES. H. B. No. 113. Approved March 16, 1905.

CONTENTS.

- Sec. 1. Condemnation of lands by public service companies. Petition.
- Sec. 2. Service of notice. Notice by publication.
- Sec. 3. Appointment of commissioners. Duties.
- Sec. 4. Different owners may be joined in one petition.
- Sec. 5. Who may defend.
- Sec. 6. Clerk to give notice of the filing of the report. When report may be reviewed.
- Sec. 7. Costs, how paid.
- Sec. 8. Appeals to district court.
- Sec. 9. The date with respect to which compensation shall be assessed, and the measure thereof.
- Sec. 10. Telephone or telegraph company not to enter or appropriate dwelling house.
- Sec. 11. Who may have damages ascertained. Proceedings.
- Sec. 12. Proceedings when property held by corporation.
- Sec. 13. Jurisdiction of court to regulate the mode of making crossings or of enjoying a common use.
- Sec. 14. Condemnation of lands for depot purposes.
- Sec. 15. Condemnation of lands for certain other purposes.
- Sec. 16. New proceedings to cure defective title.
- Sec. 17. Payment of damages.
- Sec. 18. Taking of possession.
- Sec. 19. Condemnation of land grants. Proviso.
- Sec. 20. Rights of corporations engaged in manufacture of logs or lumber.
- Sec. 21. Logging and lumber companies to have right of eminent domain and condemnation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. In case lands or other property are sought to be

appropriated by any railroad, telephone, telegraph company created or authorized to do business under the laws of this territory, public use, and such corporation and the owner of such lands cannot agree upon the proper compensation to be paid, or in case the owners are incapable of contracting, be unknown or be a non-resident of the territory, such corporation may apply to the district court of the county where said land or any part thereof lies, by petition, setting forth the general directions in which it is desired to construct their railroad, telephone or telegraph line over such lands, a description of the real estate or other property which the company seeks to acquire, the names of the owners thereof, and a particular description of the property of each owner, if known, or, if unknown, a particular description of the property whose owners are unknown, and praying for the appointment of three disinterested freeholders as commissioners, to assess the damages, which such owners may severally sustain in consequence of the establishment, erection and maintenance of such railroad, telegraph or telephone line or other structure that may be used for public purposes over or upon such lands in connection and for the use of such railroad, to which petition the owners of all such parcels as lie within the county or territory shall be parties defendant, by name, if the names are known, and by description of the unknown owners of the land therein described, if their names are unknown. If the proceedings seek to affect the lands of persons under guardianship, the guardians must be made parties defendant. If the present owner of any land to be affected has a less estate than a fee, the person having the next vested estate in remainder may, at the option of the petitioners, be made party defendant; but if such remaindermen are not made parties, their interests shall not be bound by the proceedings. It shall not be necessary to make any person party defendant in respect to their ownership, unless they are either in actual possession of the premises to be affected, claiming title, or have some interest or title in and to the premises appearing of record upon the proper records of the county. Where the property of any person, sought to be condemned, lies partly in one county and partly in an adjoining county, it shall not be necessary to institute separate proceedings as to such property, but the proceeding may be instituted in either county where such property is situate: *Provided*, Such property shall be contiguous.

Sec. 2. Upon the filing of the petition, a notice shall be served upon such owner or owners giving at least five days notice of the time when said petition will be presented; which

notice shall be served by delivering a copy thereof to such owner or owners by some credible person, and proof of the service shall be made by the affidavit of such person. If the name or residence of the owner be unknown, or if the owners, or any of them, do not reside within the territory, notice of the time of hearing the petition, reciting the substance of the petition and the day fixed for the hearing thereof, shall be given by publication for three weeks consecutively, prior to the time of hearing the petition, in a newspaper published in the county in which the proceedings are pending, if one is published in the county, and if such owner has a usual place of abode in said territory, said notice may be served by leaving a copy thereof at said usual place of abode with some agent, servant or employes or member of the family of such owner found at such usual place of abode over the age of fifteen years, and informing such person that said notice is to be delivered to the party or owner upon whom such notice is sought to be had.

Sec. 3. The court on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be freeholders, residents of the county in which the real estate or a part thereof is situated, to assess the damages which the owners may severally sustain by reason of such appropriation, who, after having viewed the property, shall forthwith return, under oath, such assessment of damages to the clerk of such court, setting forth the amount of damages; and should more than one owner be included in the petition, then the damages allowed each shall be stated separately, together with a specific description of the property for which such damages are assessed, and the clerk shall file and record the said report; and thereupon such company shall pay to the said clerk the amount thus assessed, for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such company to hold the interest in the property so appropriated for the uses aforesaid; and upon the failure to pay the assessment aforesaid, the court may, upon motion and notice by the party entitled to such damages enforce the payment of the same by execution.

Sec. 4. Any number of owners, residents in the same county may be joined in one petition, and the damages to each shall be separately assessed by the same commissioners.

Sec. 5. All persons in occupation of, or having or claiming or in the damages for the taking thereof, though not named, an interest in, any of the property described in the complaint may appear, plead and defend, each in respect to his own prop-

erty or interest, or that claimed by him, in like manner as if named in the complaint.

Sec. 6. Upon filing of such report of said commissioners, the clerk of the court wherein the same is filed shall duly notify the party whose property is affected, of the filing thereof; and the report of said commissioners may be reviewed by the court in which the proceedings are had, on written exceptions, filed by either party in the clerk's office, within ten days after the service of the notice aforesaid; and the court shall make such order therein as right and justice may require, and may order a new appraisement upon good cause shown to be made, either by the commissioners already appointed or by three other qualified commissioners to be appointed for that purpose. But notwithstanding such exceptions and order for a new appraisement, such company may proceed to erect said telephone, or telegraph line, or construct said railroad or other public improvements in connection with and for the use of such railroad; and any subsequent proceedings shall only affect the amount of compensation to be allowed in all cases arising under the provisions of this act, the report of the commissioners, when signed by a majority of them, shall be taken and considered as the report of all.

Sec. 7. The costs of the proceedings to appropriate the right-of-way shall be paid by the parties seeking the appropriation up to and including the final report of the commissioners. The court shall allow the commissioners a reasonable compensation for their services, not to exceed five dollars each per day, which shall be taxed as costs in the proceedings, and the actual necessary expenses of such commissioners, to be approved by the court.

Sec. 8. Within twenty days after the final confirmation of any report of such commissioners, as provided for in section 6 of this act, any person interested therein may appeal from the said order and confirmation to the district court of the proper county, by filing a notice with the clerk of said court that an appeal has been so taken, and thereupon the clerk shall docket said cause in the district court and it shall stand for trial in said court as other civil causes are tried and shall be tried *de novo*, and the parties, unless they shall waive the same, shall be entitled to a trial by jury as in ordinary cases. Upon such trial on appeal if the party taking the appeal does not secure in his favor a more beneficial valuation of the said property than was fixed by the report of the said commissioners, then the party taking such appeal shall pay all costs that may accrue on account of the appeal.

Sec. 9. For the purposes of assessing compensation and damages, the right thereto shall be deemed to have accrued at the date of the notice, and its actual value at that date, shall be the measure of compensation of all property to be actually taken, and also the basis of damages to property not actually taken but injuriously affected, and in all cases where such damages are legally recoverable. If an order be made letting the plaintiff into possession as provided in this act, the compensation and damage awarded shall draw lawful interest from the date of such order. No improvements put upon the property, subsequent to the date of the service of notice or put thereon after the actual taking of the land shall be included in the assessment of compensation or damages.

Sec. 10. No telephone or telegraph company shall, by virtue of this article, be authorized to enter or appropriate any dwelling, barn, store, warehouse, or similar building, erected for any commercial, agricultural or manufacturing purposes, or to erect poles so near thereto as materially to inconvenience the owner in their use or to occasion injury thereto.

Sec. 11. In case property is to be, will be, or has been by any corporation damaged for public use, any person interested may have such damages ascertained. The proceedings for ascertaining and paying such damages shall be the same as are and may be provided by law for assessing damages which owners of land may sustain in consequence of its appropriation for railroad purposes.

Sec. 12. In case the lands sought to be appropriated are held by any corporation, the right to appropriate the same by a railroad, telephone or telegraph company shall be limited to such use as shall not materially interfere with the uses to which, by law, the corporation holding the same is authorized to use the same. Where no agreement can be made between the parties, the mode of assessing the damages provided heretofore, as to private persons, shall be adopted; and if the lands to be appropriated lie in more than one county, an application may be made in any one county in which any of the lands lie, and the damages shall be assessed as to all the lands of the defendant corporation along the whole line in one proceeding.

Sec. 13. The court shall have power:

1. To regulate and determine the place and manner of making connections and crossings, or of enjoying the common use mentioned in the foregoing section;

2. To hear and determine all adverse or conflicting claims to the property sought to be condemned, and to the damages therefor;

3. To determine the respective rights of different parties seeking condemnation of the same property.

Sec. 14. In case lands sought to be appropriated by any railroad company in this territory for depot purposes belong to private persons, and such company and the owner cannot agree upon the compensation to be paid, or in case the owner is incapable of contracting, unknown or non-resident of the territory, such company may have such lands condemned in the manner that is provided in this article for assessing damages which the owners of lands may severally sustain in consequence of the erection, establishment and maintenance of railroads over such lands.

Sec. 15. In addition to the purposes hereinbefore specifically mentioned for which property may be condemned under the provisions of this act, it may also be condemned for public buildings and grounds for the use of the territory, public buildings and grounds for the use of any county, incorporated city or city and county, village, town or school district; and for canals, aqueducts, reservoirs, tunnels, flumes, ditches or pipes for conducting or storing water for the use of the inhabitants of any county, incorporated city, city and county, village or town, or for draining any county, incorporated city or city and county, village or town; raising the banks of streams, removing obstructions therefrom, roads, streets and alleys; public parks, and all other public uses for the benefit of any county, incorporated city or city and county, village or town, or the inhabitants thereof, which may be authorized by law; also for ferries, bridges, public roads, electric and horse railroads, or other roads for other vehicles for public use, for canals, ditches, flumes, aqueducts and pipes, for irrigation. Also for electric lines to conduct electricity for power, heat and lighting purposes.

Sec. 16. If the title attempted to be acquired is found to be defective from any cause the plaintiff may institute proceedings to acquire the same, as in this title prescribed.

Sec. 17. Payment may be made upon assessments under this act to the defendants entitled thereto, or the money may be deposited in the court for the defendants, as hereinbefore provided, to be distributed to those entitled thereto. If the money be not so paid or deposited the defendants may have execution as in civil cases, and if the money cannot be made upon execution, the court upon a showing, to that effect, must set aside and annul the entire proceedings, and restore possession of the property to the defendant, if possession has been taken by the plaintiff.

Sec. 18. At any time after the report of the commissioners

and approval of the same, and pending any appeal to the district court, and the plaintiff shall have paid into the court for the defendants the full amount of the appraised value of said property, if already in possession, may continue therein, and if not, then the plaintiff may take possession of and use the property during the pendency of and until the final conclusion of the litigation, and if necessary, all actions and proceedings against the plaintiff on account thereof may be staid, and for the purpose of enforcing the provisions of this section, the court is hereby authorized and empowered to make all orders which it may deem necessary to protect the interests of all parties in said litigation, requiring bond or other indemnity or security. And in all cases where it is necessary to secure service upon the defendants, or any of them by publication, the court may, upon the plaintiff giving bond at the time the petition is presented in such sum as the court may fix, make an order authorizing the plaintiff to at once enter into the possession of the property.

In all cases where land is authorized to be taken for public uses under the provisions of this act, any body corporate or county or corporation authorized to exercise the right of eminent domain under the provisions of this act, may enter upon the land and make examinations, surveys and maps thereof, and such entry shall constitute no cause of action in favor of the owner of the land, except for actual damage to crops or other property or for injuries resulting from negligence wantonness or malice, or by any reason whatsoever caused on account of such entry so made.

Sec. 19. Whenever any part of a tract of land confirmed by special act of congress or by a decree of the court of private land claims as a Spanish or Mexican land grant, is sought to be condemned for any of the purposes provided for under the provisions of this act, such condemnation proceedings may be conducted by making the unknown owners and also the person to whom said grant was confirmed parties defendant, designating and describing them as they were designated and described in the act or decree of confirmation, and designating the heirs and successors of the said confirmees "as heirs and successors in title of said confirmees," and giving the name of such grant. And the commissioners appointed to appraise the portions of said tracts to be taken shall report specially, describing the same, all parts of said grant so proposed to be taken, found by them to be in exclusive possession of any person or persons, corporation or corporations, whether held as the result of petition proceedings or adverse possession, together with the value of such petitions of said grant, and the improve-

ments thereon affected by the use of the same which is proposed to be made. Upon such report the proceedings shall be had as are provided for under the terms of this act, in other cases where the owners, or any of them, of tracts proposed, to be taken are unknown: *Provided*, That no condemnation proceedings shall be had under the provisions of this section except for the purposes authorized by law to corporations authorized to exercise the right of eminent domain.

Sec. 20. All corporations, lawfully doing business in the Territory of New Mexico, and engaged in the manufacture of logs, lumber or timber, shall have the right to construct, maintain and operate logging roads, chutes, flumes or artificial water courses for the transportation of its logs and other timber products, and shall have the right and power to acquire, hold, use and whenever the rights of any interested party shall not be affected thereby, may transfer all such real and personal property as shall be reasonably necessary for the construction and maintenance of such logging roads, chutes, flumes and artificial water courses: *Provided*, That such corporations operating under the provisions of this section shall be subject to the laws in force governing common carriers.

Sec. 21. Such corporations shall have the right of eminent domain and shall have the right to condemn and appropriate property for the uses and purposes set forth in section 1 of this act. Such right of eminent domain and condemnation shall be exercised in the manner prescribed by this act: *Provided*, That any property acquired under the provisions of this act shall be used exclusively for the purposes as set forth in this act and whenever the use of such property as herein contemplated shall cease for the period of three years, the same shall revert to the original owner, his heirs or assigns.

Sec. 22. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force from and after its passage.

CHAPTER 98.

**AN ACT TO AMEND CHAPTER 73 OF THE SESSION LAWS OF
1903 RELATING TO DAMAGES COMMITTED BY ANIMALS.
*H. B. No, 146; Approved March 16, 1905.***

CONTENTS.

Sec. 1. Section 1, Chapter 73, Laws of 1903, regarding the liability of owners of animals, damaging fields, amended. *Proviso.* Animals to be held by justice of the peace until damage satisfied and paid.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1 of Chapter 73 of the Laws of 1903 be amended by adding at the end of said section the following: "*Provided*, That whenever any animal found damaging any cultivated field as provided in this act the same shall be turned over to the justice of the peace of the precinct immediately after such damage has been committed, and said justice of the peace shall hold said animal or animals at the expense of the owner or owners of said animal or animals until such damage has been satisfied and paid.

That any person holding any animal or animals for more than twelve hours without turning the same over to the justice of the peace shall be barred from making any claim for such damage."

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 99.

**AN ACT AUTHORIZING THE CONSOLIDATION OF BENEVOLENT,
CHARITABLE, AND SCIENTIFIC ASSOCIATIONS. *H. B. No.*
*120; Approved March 16, 1905.***

CONTENTS.

Sec. 1. Consolidation of benevolent, charitable and scientific associations. Consent necessary to effect consolidation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. All benevolent, charitable and scientific associations or incorporations, incorporated under the laws of the Territory of New Mexico, and having no capital stock, may con-

solidate their debts, property, assets, and franchises with any other like association or corporation, either created under the laws of the Territory of New Mexico, or under the laws of any state or territory in such manner as may be agreed upon by the respective boards of directors or trustees of such corporations. No such consolidation must take place without the written consent of three-fourths of the board of directors or trustees of the corporations, and such consolidation must not in any way relieve such corporation or corporations from any and all relieve such corporation or corporations from any and all the same must be given by advertising for one month in at least one newspaper published at the principal place of business of the corporations consolidating. When the consolidation is completed a copy of the new articles of incorporation must be filed with the secretary of state or of the territory in the same manner as original articles of incorporation are required to be filed.

Sec. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 100.

AN ACT PROVIDING FOR THE REPEAL OF AN ACT WITH REFERENCE TO ASSESSMENTS, AND FOR OTHER PURPOSES. A. C. B. No. 80; Approved March 16, 1905.

CONTENTS.

- Sec. 1. Sections 5, 6, 7, 8 and 9, Chapter 88, Laws of 1903, relating to the equalization of taxes among counties of territory, and Sec. 32, Chapter 22, Laws of 1899, regarding the listing and assessment of sheep, repealed. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 5, Section 6, Section 7, Section 8, and Section 9 of the Session Laws of 1903, Chapter 88, said sections being a portion of an act entitled "An Act providing for the equalization of taxes among the counties of the Territory of New Mexico, approved March 17, 1903, and Section 32 of Chapter 22 of the Session Laws of 1899, approved March 1, 1899, are hereby repealed: *Provided*, That if the levy made in any county for territorial purposes pursuant to said sections shall produce or may have produced an excess above the quota or sum fixed for such county, such excess shall be paid by the treasurer of said county into the territorial treasury to be used for territorial purposes. *Provided, Further*,

That nothing herein contained shall in any manner invalidate the levy heretofore made pursuant to the provisions of said sections 8 and 9; but such levies shall be and remain in full force and effect and all moneys collected thereunder shall be paid into the territorial treasury for territorial purposes, including any surplus that may be produced by such levies over and above the amount directed to be raised in the several counties of the territory.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 101.

AN ACT TO PROMOTE THE EFFICIENCY OF THE NATIONAL GUARD OF THE TERRITORY OF NEW MEXICO AND FOR OTHER PURPOSES. *C. B. No. 57; Approved March 16, 1905.*

CONTENTS.

ARTICLE 1.—THE MILITIA OF THE TERRITORY.

ARTICLE 2.—THE NATIONAL GUARD OF THE TERRITORY.

ARTICLE 3.—COMMISSIONED OFFICERS OF THE NATIONAL GUARD.

ARTICLE 4.—ENLISTED MEN OF THE NATIONAL GUARD.

ARTICLE 5.—SERVICE OF THE NATIONAL GUARD.

ARTICLE 6.—MILITARY COURTS.

ARTICLE 7.—ARMS, UNIFORMS, AND EQUIPMENTS OF THE NATIONAL GUARD.

ARTICLE 8.—ARMORIES.

ARTICLE 9.—PAY AND ALLOWANCES.

ARTICLE 10.—PRIVILEGES, PROHIBITIONS AND PENALTIES.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

ARTICLE 1.—THE MILITIA OF THE TERRITORY.

Sec. 1.—Persons Subject to Militia Duty—Exemptions.

All the able-bodied male citizens and able-bodied males of foreign birth who have declared their intention to become citizens, who are more than 18 and less than 45 years of age, and who are residents of this territory, shall constitute the militia, subject to the following exemptions:

1. Persons exempted by the laws of the United States.
2. Persons exempted by the laws of this territory.
3. The members of any regularly organized fire or police department in any city, village, or town, and exempt firemen

who have served their full term in any fire company, but no member of the active militia shall be relieved from duty because of his joining any such fire company or department.

4. Justices and clerks of courts of record, registers of deeds, sheriffs, ministers of the gospel, practicing physicians, superintendents, officers, and assistants of hospital, prisons and jails, conductors and engineers of railways.

5. Idiots, lunatics, paupers, vagabonds, confirmed drunkards, persons addicted to the use of narcotic drugs, and persons convicted of infamous crimes.

All such exempted persons, except those enumerated in subdivisions 1 and 5, shall be available for military duty in case of war, insurrection, invasion, or imminent danger thereof.

Sec. 2.—Enrollment.

Whenever the governor shall deem it necessary, he may order an enrollment to be made by officers designated by him of all persons liable to service in the militia. Such enrollment shall state the name, residence, age and occupations of the persons enrolled, and their previous or existing military or naval service. Three copies shall be made thereof; one shall be retained by the enrolling officer, one filed in the office of the town or city clerk in which the enrolled persons reside, one in the office of the clerk of the county in which the enrollment is made, and the original in the office of the adjutant general.

Sec. 3.—Notice of Enrollment—Exemption Claims.

The officer making the enrollment shall, at the time of making the same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to him or leaving it with some person of suitable age and discretion, at his place of residence. All persons claiming exemption must, within fifteen days after receiving such notice, file a written statement of such exemption, verified by affidavit, in the office of the county clerk. Such clerk shall thereupon, if such person be exempted according to law, mark the word "exempt" opposite his name; and the remainder of all thus enrolled, and not thus found to be exempt, shall constitute the militia of the territory, and such clerk shall transmit a copy of such corrected roll to the adjutant general. The commanding officer of each organization in the national guard and the heads of the fire and police departments in each city or town, whenever an enrollment is ordered, shall file in the office of such county clerk a certified list of the names of all persons in his command or department.

Sec. 4.—Examination of Assessment Rolls and Poll Lists.

The assessors in each city, town or ward in this territory shall allow persons appointed to make such enrollment, at all proper times, to examine their assessment rolls and take copies thereof, and the clerks of all counties, towns and cities shall in like manner, at all proper times, allow such persons to examine and copy the poll lists on file in their offices. All persons shall, upon the application of any person making such enrollment, give the name of and all other proper information concerning any person within their knowledge liable to be enrolled, under penalty of \$10 for every concealment or false information, or refusal to give the information requested, to be recovered in the name of the people in any court, with costs. The officer making the enrollment shall, within ten days, report all persons who shall fail or neglect to give information to the adjutant general.

Sec. 5.—Designation and Classification of the Militia.

The militia of the territory shall be divided into two classes: The active and the reserve militia. The active militia shall consist of the organized and uniformed military forces of the territory, which shall be known as the National Guard of the Territory; the reserve militia shall consist of all those liable to service in the militia, but not serving in the national guard of the territory.

Sec. 6.—Commander-in-Chief.

The governor of the territory, by virtue of his office, shall be the commander-in-chief of the militia of the territory, except of such portions as may at times be in the service of the United States. Whenever the governor is unable to perform the duties of commander-in-chief, the senior line officer of the national guard, present for duty in the territory, shall command the militia of the territory, except in cases where the president of the council under the laws of the territory is required to perform such duty. No armed military force from another state, territory or district shall be permitted to enter the territory for the purpose of doing military duty therein without the permission of the governor, unless such force is part of the United States army or is acting under the authority of the United States.

Sec. 7.—Staff of the Governor.

The staff of the governor shall consist of one adjutant general, who shall have the rank of brigadier general; who shall be chief of staff, and in time of peace shall perform also the

duties of quartermaster general, commissary general, inspector general and chief of ordnance. One judge advocate general, and one surgeon general who shall each have the rank of colonel, and who shall perform the duties of such offices. The adjutant general shall be appointed from the offices of the national guard. The governor is also authorized to appoint additional aides-de-camp, with the rank of colonel, not to exceed six in number, and without restriction as to source or selection. All of these staff officers shall be appointed by the governor and hold office during his pleasure, and their commissions shall expire with the term of the governor appointing them. The adjutant general shall have charge of and carefully preserve the colors, flags, guidons and military trophies and shall not allow the same to be loaned out or removed from their place of deposit; and he shall have an office in the capitol building.

The surgeon general shall have full charge of all matters pertaining to his department, shall recommend for appointment all surgeons, and assistant surgeons of the national guard to the governor. All records and business of his office shall be kept in the office of the adjutant general, in the capitol building.

Sec. 8.—Power of the Governor in Case of Invasion, Etc.

The governor shall have power, in case of insurrection, invasion, tumult, riot, or breach of peace, or imminent danger thereof, to order into the active service of the territory any part of the militia that he may deem proper. When the militia of this territory or a part thereof is called forth under the constitution and laws of the United States, the governor shall order out for service the active militia or such part thereof as may be necessary, and if the number available be insufficient, he shall order out such part of the reserve militia as he may deem necessary. During the absence of organizations of the national guard in the service of the United States their territorial designations shall not be given to new organizations.

Sec. 9.—Drafts or Volunteers From Militia.

Whenever it shall be necessary to call out any portion of the reserve militia for active duty, the governor shall direct his order to the mayor of any city or the supervisor of any town, who, upon the receipt of the same, shall forthwith proceed to draft, by lot, as many of the reserve militia in his city or town, or accept as many volunteers as are required by the governor, and shall forthwith forward to the governor a list of the persons so drafted or accepted as volunteers.

Sec. 10.—Punishment for Failure to Appear.

Every member of the militia ordered out, or who volunteer or is drafted under the provisions of this article, who does not appear at the time and place designated by his commanding officer, the mayor or supervisor, within twenty-four hours from such time, or who does not produce a sworn certificate of physical disability from a physician in good standing, to so appear, shall be taken to be a deserter and dealt with as prescribed in the articles of war of the United States.

Sec. 11.—Organization of Reserve Militia When Ordered Out.

The portion of the reserve militia ordered out or accepted into the service, as indicated in sections 8 and 9 shall be immediately mustered into the service of the territory for one year, or such less period as the governor may direct, and shall be organized into troops, batteries, or companies, which may be arranged in squadrons, battalions, or regiments, or assigned to organizations of the national guard already existing

The governor is authorized to appoint the officers necessary to commence or complete any organization thus created. Such new organizations shall be equipped, disciplined and governed according to this military code and the military regulations of the territory.

Sec. 12.—Proclamation of State of Insurrection.

Whenever any portion of the militia is employed in aid of the civil authority, the governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county or city in which the troops are serving, or any specified portion thereof, to be in a state of insurrection.

Sec. 13.—Occasions When the Articles of War of the United States to Be Enforced.

Whenever any portion of the militia shall be on duty under or pursuant to the orders of the governor, or shall be on duty or ordered to assemble for duty in time of war, insurrection, invasion, public danger, or to aid the civil authorities on account of any breach of the peace, tumult, riot, resistance to process of this territory, or imminent danger thereof, or for any other cause, the articles of war governing the army of the United States, and the regulations prescribed for the army of the United States, as far as such regulations are consistent with this chapter and the regulations issued thereunder, shall be in force and regarded as a part of this chapter until said forces shall duly be relieved from such duty. As to offenses

committed when such articles of war are so in force courts-martial shall possess in addition to the jurisdiction and power of sentence and punishment herein invested in them, all additional jurisdiction and power of sentence and punishment exercisable by like courts under such articles of war or the regulations or law governing the United States army or the customs and usages thereof, but no punishment under such rules and articles which shall extend to the taking of life shall, in any case be inflicted except in time of actual war, invasion, or insurrection, declared by proclamation of the governor to exist, and then only after the approval by the governor of the sentence inflicting such punishment. Imprisonment other than in guard house shall be executed in jails or prisons designated by the governor for the purpose.

Sec. 14.—Relief From Civil or Criminal Liability.—Security for Costs.

Members of the militia ordered into the active service of the territory by any proper authority shall not be liable, civilly or criminally, for any act or acts done by them while on duty. When a suit or proceeding shall be commenced in any court by any person against any officer of the militia for any act done by such officer in his official capacity in the discharge of any duty under this chapter, or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person prosecuting or instituting the suit or proceeding, to file security for the payment of costs that may be awarded to the defendant therein, and the defendant in all cases may make a general denial and give the special matter in evidence. In case the plaintiff shall be non-suited, or have a verdict or judgment rendered against him, the defendant shall recover treble costs.

Sec. 15.—The Adjutant General and Assistants.

The adjutant general shall be in control of the military department of the territory and subordinate only to the governor in matters pertaining to said department. He will perform such duties as pertain to the adjutant general, and the other chiefs of staff departments, under the regulations and customs of the United States army. He will superintend the preparation of all returns and reports required by the United States from the territory and will perform all the duties prescribed for him in this "military code."

1. He shall keep a register of all the officers of the militia of the territory, and keep in his office all records and papers

required to be kept and filed therein, and make a report on or before the 31st day of December in each year to the governor, including a detailed statement of all the expenditures for military purposes during that year.

2. He shall, at the expense of the territory when necessary, cause the military law, the general regulations of the territory and articles of war of the United States, to be printed, indexed, and bound in proper and compact form and distributed to the commissioned officers at the rate of one copy to each; and to each commissioned officer and headquarters he shall issue one copy of the necessary text books and of such annual reports concerning the militia as the governor may direct.

3. He shall cause to be prepared and issued all necessary blank books, blanks, forms and notices required to carry into full effect the provisions of this chapter. All such books and blanks shall be and remain the property of the territory.

4. The seal now used in the office of the adjutant general shall be the seal of his office, and shall be delivered by him to his successor.

5. The adjutant general may have one assistant adjutant general, of the grade of lieutenant colonel. The assistant shall be at the time of his appointment an officer in active service in the militia of the territory. He shall be appointed and commissioned by the governor upon the recommendation of the adjutant general, and shall be entitled to all the rights and privileges granted to officers of the national guard in this chapter.

The assistant adjutant general shall aid the adjutant general by the performance of such duties as may be assigned to him, and shall, in case of absence or inability of the adjutant general, perform all or such portion of the duties of the adjutant general as the latter may expressly delegate to him.

6. In order that the national guard of the territory may receive the benefit of the funds provided by congress it shall be the duty of the adjutant general of the territory to submit a plan of proposed field or camp service of instruction prepared by the commanding officer of the national guard for the ensuing year, with an estimate of funds required for payment, subsistence, and transportation of the portion of the national guard participating therein, said estimate to furnish the details and to be made out in form required by instructions from the secretary of war.

7. He shall make such regulations pertaining to the preparation of reports and returns and to the care and preservation

of property for military purposes, whether belonging to the territory or to the United States, as in his opinion the conditions demand; such regulations to be operative and in force when promulgated in the form of general orders, circulars, or letters of instructions.

8. The adjutant general shall be required to give bond with sufficient surety in not exceeding \$10,000 to the people of the territory, conditioned for the faithful performance of his duties, such bonds to be approved by the governor and solicitor general and filed in the latter's office.

9. He shall attend to the care, preservation, safe keeping and repairing of the arms, ordnance, accoutrements, equipments and all other military property belonging to the territory, or issued to the territory by the government of the United States for the purpose of arming and equipping the organized militia. All military property of the territory which, after a proper inspection, shall be found unsuitable for the use of the territory, shall under the direction of the governor, be disposed of by the adjutant general at public auction after suitable advertisement of the sale, daily for ten days, in at least one newspaper published in the English language in the city or county where the sale is to take place; or the same may be sold at private sale when so ordered by the governor. He shall bid in the property or suspend the sale whenever, in his opinion, better prices may or should be obtained. He shall, from time to time, render to the governor a just and true account of the sales made by him, and shall expend the proceeds of the same in the purchase of other military property, as the governor may direct.

He shall be responsible for all the arms, ordnance, accoutrements, and other military property which may be issued to the territory by the secretary of war in compliance with law; and it shall thereafter be his duty to prepare returns of said arms and other property of the United States at the times and in the manner requested by the secretary of war.

He shall, upon the order of the governor, turn into the ordnance department of the United States army the rifles, carbines, bayonets, bayonet scabbards, gun slings, belts, and such other necessary accoutrements and equipments, the property of the United States and now in possession of the territory, which may be replaced, from time to time, by new arms, equipments, etc., sent by the United States in substitution therefor, and cause the same to be shipped, under instructions from the secretary of war, to the designated arsenal or depot at the expense of the United States. And when the national guard of the territory shall be fully armed and equipped with standard

service magazine arms, and the standard equipment and accoutrements of the United States army, he shall cause all the remaining arms, equipments, etc., the property of the United States and in possession of the territory, to be transferred and shipped as above directed.

10. He shall keep a just and true account of all expenses necessarily incurred, including pay of officers and enlisted men, subsistence of militia, transportation of the militia, and of all military property of the territory, and such expenses shall be audited and paid in the same manner as other military accounts are audited and paid.

11. He shall issue such military property as the governor shall direct, and under his direction make purchases for that purpose. No military property shall be issued to persons or organizations other than those belonging to the active militia, except to such portions of the reserve militia as may be called out by the governor.

Purchases of property not exceeding \$100 in value shall be made in such manner as the adjutant general shall direct. If such purchase requires an expenditure exceeding \$100 and not exceeding \$500, the adjutant general shall procure written proposals to furnish such property from the lowest responsible bidder.

If such purchase shall require the expenditure of a sum exceeding \$500 he shall publicly advertise, for not less than ten days, for sealed proposals for furnishing such property: such proposals shall be publicly opened by the adjutant general at the place, day, and hour designated in such advertisement.

The adjutant general shall, if the governor approve, make contracts with the lowest responsible bidder to furnish such property. All proposals and contracts made under the authority hereby conferred shall be filed in the office of the adjutant general. The adjutant general is authorized and directed, whenever, in his opinion, it shall be to the interest of the territory, to require a party who shall agree or contract to furnish such property to give bond to the people of this territory in such sum and with such surety as he shall direct, conditioned for the faithful performance of such agreement or contract. In case of default such bond shall be prosecuted by the solicitor general and all moneys recovered shall be applied by the adjutant general to the benefit of the national guard.

All property purchased under the authority hereby granted shall be inspected by an inspector or an officer detailed for that purpose by the commanding officer of the national guard, and no payment shall be made until it shall appear by the cer-

tificate of such officer that such property is of the kind and quality specified in such agreement or contract.

In case of insurrection, invasion, tumult, riot, breaches of the peace or imminent danger thereof, the governor may, upon the certificate of the commanding officer of the national guard, temporarily suspend the operation of this paragraph and direct the adjutant general to purchase such military property as may be required in open market. He shall report such action, with the reasons therefor, and a statement of the property purchased and the prices paid therefor, to the legislature at its next session.

He shall render annually to the governor a statement in detail showing the disposition of all clothing, ordnance, arms, ammunition and other military property on hand or issued.

Sec. 16.—Armory Commissions.

Whenever any arsenal, armory, or other quarters of the militia, camp ground or rifle range is owned by the territory, the same shall be under the charge of an armory commission. When any such property is devoted to the use of the national guard, the commission in charge thereof shall consist of the commanding officer of the national guard, the adjutant general, and the commanding officer within whose command the arsenal, armory, quarters, camp grounds, or rifle range be located.

From the time this act takes effect, a commission so constituted shall take charge of the erection and completion of all such property as may hereafter be authorized to be erected, and of all such property the erection or completion of which is in progress at the time this act takes effect under any general or special law, and as to such work as is in progress, such commission is hereby invested with all the powers conferred by law on any officers, boards, or commissioners theretofore charged with such work or any part thereof.

It shall keep in good repair the arsenals, armories, quarters, camp-grounds, and rifle ranges in its charge, and all moneys appropriated heretofore or which may be appropriated hereafter for the erection or repair of such buildings, grounds, and ranges shall be expended by a commission so constituted in the same manner as other moneys appropriated for military purposes are authorized to be expended, except as herein otherwise provided. Every such commission is hereby authorized to appoint, and at its pleasure discharge, its own architects and inspectors. When ordinary repairs not exceeding \$100 in cost are necessary, the officer in charge of the building or grounds shall report to the adjutant general what is required to be done,

submitting estimates from at least two responsible parties, and the adjutant general may authorize the officer to cause the repairs to be made, designating the party who shall do the work. When repairs, cost of which will amount to more than \$100 but not more than \$500, are required, a full statement of the necessity thereof must be made by the officer in charge to the adjutant general, who shall cause estimates of the cost thereof to be prepared by two or more parties, have them examined by an architect selected by the commission, and then cause the work to be done under a contract entered into by him for that purpose. When repairs are to be made, the expenditures for which will exceed \$500, the commission shall advertise for proposals, bids shall be received, and contracts regularly entered into.

During and upon the completion of the work, the expenditure for which will exceed \$500, it shall be inspected from time to time by an inspector selected by the commission, and payment shall not be made until it appears by the certificate of such inspector that such work has been properly performed and according to the contract if one has been made. Payment for repairs, the expenditure for which does not exceed \$500, shall only be made upon a like certificate of the officer in charge of the building or grounds where the same were made.

All bills for work done on any of the arsenals, armories, quarters, camp grounds, or rifle ranges of the territory exceeding \$10 must be verified by affidavit setting forth that the work has been properly performed and that the amount charged is reasonable and just.

Copies of all contracts and agreements made for the repair or alteration of arsenals, armories, quarters, camp grounds, or rifle ranges of the territory shall immediately be filed in the office of the adjutant general.

When any real property is taken for the purpose of erecting a territorial armory thereon, the buildings on such property, or the old materials in the same, may be sold at public or private sale, for the best price that can be obtained, and if the property is taken by the territory the net sum realized therefrom shall be paid into the territorial treasury, and if taken by a county, to the county treasurer of such county, or it may be used for the improvement of the property taken by the authorities authorized to erect such armory.

When real property shall be required for the purpose of a territorial camping ground, or for rifle practice or other military purposes in connection with any territorial arsenal or armory, which is deemed necessary by the armory commis-

sion, and such armory commission is unable to agree with the others for the purchase thereof, title thereto shall be acquired by the solicitor general in the name of the people of the territory, by condemnation, on the written application of the armory commission. The cost of all real property so taken, and damages and expenses incurred by the awarded in any proceedings for the condemnation of any such property, shall be paid by the territory.

The words "armory commission" when used in this chapter shall be construed to refer to the commissions provided for by this section.

Sec. 17.—Legal Adviser of the Commander-in-Chief, Etc.

The solicitor general of the territory shall be the legal adviser of the governor, of the adjutant general, and of the armory commission.

Sec. 18.—Audit and Payment of Accounts.

No officer of the militia shall incur any expenses whatsoever to be paid by the territory, except such as are authorized in this chapter, without first obtaining the authority of the governor; in extreme emergencies, however, the commanding officer of any organization or detachment of the active militia may make purchases of such necessities as are absolutely required for the immediate use and care of his command; a report of such action, containing a statement of the articles purchased and the price thereof, must be made forthwith through the channel to the adjutant general. The auditor of the territory shall be the auditor of all accounts for property purchased by the adjutant general, and copies of the orders or contracts under which such purchases are made shall be filed in his office. All other military accounts payable by the territory shall be audited by the adjutant general. Military accounts thus audited shall be paid by the treasurer of the territory from the proper appropriation made by the legislature, upon the warrant of the auditor.

ARTICLE 2.—THE NATIONAL GUARD OF THE TERRITORY.

Sec. 19.—Composition and Strength.

The national guard of the territory shall consist of a brigadier general, an adjutant general's department, an inspector general's department, a judge advocate general's department, an ordnance department, a quartermaster's department, a subsistence department, a corps of engineers, a medical department, a signal corps, a hospital corps, the existing military or-

ganizations and such others as may be organized hereafter, and such persons as may be enlisted or commissioned therein.

The military organizations of the national guard shall constitute a brigade, and in time of peace shall consist of one regiment of infantry and band, one squadron of cavalry and band, one light battery of field artillery and a band which shall be designated "the governor's band" and which shall be stationed at the capital, one gatling gun section, one signal company, and a hospital corps, the present regiment battalions, squadrons, troops, batteries, companies, and signal corps shall remain as now established, but the governor shall have power to alter, divide, annex, consolidate, disband, or reorganize whenever in his judgment, the efficiency of the territorial forces will be thereby increased, and he shall at any time have power to change the organization of regiments, battalions, squadrons, troops, batteries, companies, and signal corps so as to conform to any organization, system of drill, or instructions now or hereafter adopted for the army of the United States, and for that purpose the number of officers and non-commissioned officers of any grade in regiments, battalions, squadrons, troops, batteries, companies, and signal corps may be increased to the extent made necessary by the new positions thus created.

The governor shall have power, in case of war, insurrection, invasion, or imminent danger thereof, to increase the force beyond the maximum now established by law, and to organize the same, with the proper officers, as the exigencies of the service may require.

Sec. 20.—Organization.

The military units of the national guard shall be composed and organized as follows:

INFANTRY.

A company shall consist of:

One captain.

One first lieutenant.

One second lieutenant.

One first sergeant.

One quartermaster sergeant.

Four sergeants.

Eight corporals.

Two cooks.

Two musicians.

One artificer.

Eighty-seven privates.

Total enlisted 106.

The minimum strength of a company shall be 30 enlisted men.

A battalion shall consist of:

One major.

One battalion adjutant (first lieutenant).

One battalion quartermaster and commissary (second lieutenant).

One battalion sergeant major.

Four companies.

Total enlisted (maximum), 425.

A regiment should consist of:

One colonel.

One lieutenant colonel.

One adjutant (captain).

One quartermaster (captain).

One commissary (captain).

One surgeon (major).

Two assistant surgeons (captains).

One assistant surgeon (first lieutenant).

One chaplain.

One sergeant major.

One quartermaster sergeant.

One commissary sergeant.

Two color sergeants.

One chief musician.

One principal musician.

One drum major.

Four sergeants.

Eight corporals.

One cook.

Twelve privates.

One sergeant first class, of the hospital corps.

Three sergeants of the hospital corps.

Six privates, first class, of the hospital corps.

Three privates of the hospital corps.

Three battalions.

Total enlisted (maximum), 1,321.

When it is impracticable to assign three battalions to a regiment it may be composed of a smaller number, not less than two, each of which should consist of four companies; but where four companies cannot be assigned to a battalion, it may be composed of two companies, with the third company skeletonized.

A brigade will, ordinarily, consist of three regiments of in-

fantry; it may consist of a smaller number not less than two, or of a greater number, and in each case separate battalions or companies may be assigned thereto. The commander of a brigade is a brigadier general, and he may be provided with the following staff: One assistant adjutant general, with rank of lieutenant colonel; 1 inspector; 1 judge advocate; 1 quartermaster; 1 commissary; 1 ordnance officer; and 1 engineer; each with the rank of major; 1 surgeon, with the rank of lieutenant colonel; 2 aides-de-camp, each with the rank of captain.

At camps of instruction, maneuvers, or field exercises, or when called into active service for the territory in case of riot, insurrection, tumult, or invasion, actual or impending, the governor may attach to a brigade such troops of cavalry, batteries of artillery, and organizations of special troops as may appear to him advisable, which at other times would ordinarily report to the commanding officer of the national guard direct.

Sec. 21.—Cavalry.

A troop shall consist of:

One captain

One first lieutenant.

One second lieutenant.

One first sergeant.

One quartermaster sergeant.

Six sergeants.

Eight corporals.

Two cooks.

Two farriers and blacksmiths.

One saddler.

One wagoner.

Two trumpeters.

Seventy-six privates.

Total enlisted, (maximum), 100.

The minimum strength of a troop shall be 30 enlisted men.

A squadron shall consist of:

One major.

One squadron adjutant (first lieutenant)

One squadron quartermaster and commissary (second lieutenant).

One assistant surgeon (captain).

One chaplain.

One veterinary surgeon (first lieutenant).

One squadron sergeant major.

One sergeant of the hospital corps.

Two privates, first class, of the hospital corps.

One private of the hospital corps.

Four troops.

Total enlisted, (maximum), 405.

When it shall be impracticable to assign four troops to a squadron it may be composed of a smaller number, not less than two. Troops which cannot be combined into squadrons shall exist as separate troops.

CAVALRY BAND.

The cavalry band shall consist of:

One chief musician.

One chief trumpeter.

One principal musician.

One drum major.

Four sergeants.

Eight corporals.

One cook.

Eleven privates.

Total enlisted, (maximum), 28.

The minimum strength of the cavalry band shall be 16 enlisted men.

Sec. 22.—Field Artillery.

A battery shall consist of:

One captain.

Two first lieutenants.

One second lieutenant.

One first sergeant.

One quartermaster sergeant.

One stable sergeant.

Six sergeants.

Twelve corporals.

Two cooks.

Four artificers.

Two musicians.

Ninety-one privates.

Total enlisted 120. (maximum).

A gatling gun section shall consist of:

One first lieutenant.

One sergeant.

Two corporals.

Nine privates

The minimum strength of the gatling gun section shall be 10 men.

The artillery band shall consist of:

One chief musician.

One trumpeter.

One principal musician.

One drum major.

Four sergeants.

Eight corporals.

One cook.

Eleven privates.

Total enlisted, (minimum), 28.

Sec. 23.—Signal Corps.

A company shall consist of:

One captain.

One first lieutenant.

One second lieutenant.

Five first class sergeants.

Ten sergeants.

Ten corporals.

Thirty first class privates.

Twenty second class privates.

Total enlisted, (maximum), 75.

The minimum strength of a company shall be 30 enlisted men.

The company may be divided into squads of suitable size to be stationed at places designated by the governor.

Sec. 24.—Hospital Corps.

The hospital corps of the national guard shall consist of one ambulance company, one field hospital, and of the sergeants first class, sergeants, corporals, and privates of the hospital corps who are members of regiments, battalions and squadrons. The governor shall be authorized to increase the number of enlisted men in the hospital corps so as to provide for medical attendance in batteries, separate troops, and companies, and such additional men shall be considered a part of the hospital corps.

The ambulance company shall consist of:

For medical and bearer work—

One major, surgeon, commanding.

One captain, assistant surgeon.

One first lieutenant, assistant surgeon.

Four sergeants, first class.

Nine sergeants.

One musician.

Thirty privates, first class.

Seventeen privates.

With the transportation.

One captain, quartermaster in charge of transportation.

One sergeant, first class.

One sergeant.

One blacksmith.

One saddler.

One cook.

Two musicians.

Two supernumeraries.

Thirteen drivers.

Total enlisted 83, (maximum), 40 (minimum).

Transportation

Nine ambulances.

One medical supply wagon.

Three army wagons.

The field hospital shall consist of:

One major, surgeon, commanding.

One captain, assistant surgeon.

One first lieutenant, assistant surgeon.

One sergeant, first class.

Three sergeants.

Twenty privates, first class.

Ten privates.

Two cooks.

Two assistant cooks.

One dispensary assistant.

With the transportation—

One captain, quartermaster.

Two sergeants.

Ten drivers.

One artificer.

Two supernumeraries.

Total enlisted 55, (maximum), 35 (minimum).

Transportation

Eight army wagons.

Such portions of the ambulance company or of the field hospital as are needed may be detailed for duty at encampments, field maneuvers, or in campaign.

Sec. 25.—Staff Departments.

The adjutant general's department.—This department shall consist of the commissioned officers necessary to perform the duties of assistant adjutant general on the staffs of the brigade.

The medical department.—The medical department shall consist of the officers necessary to perform the duties of surgeons and assistant surgeons on the staffs of the brigades and of the division; of the surgeons and assistance surgeons filling the positions in the regiments, battalions, and squadrons; of the additional medical officers necessary to assign to separate companies, troops, and batteries; of the medical officers necessary for the organization of such ambulance companies and field hospitals as may be deemed necessary, and of the hospital corps.

Other staff departments.—The inspector general's department, the judge advocate general's department, the ordnance department, the quartermaster's department, the subsistence department, the corps of engineers and the signal corps shall each consist of the officers necessary to perform the indicated staff and other duties prescribed in this article. Ordnance officers, in addition to their other duties, may be required to act as inspectors of small arms practice. The quartermasters, in charge of the means of transportation of the ambulance companies and field hospitals, shall be officers of the quartermaster's department.

ARTICLE 3.—COMMISSIONED OFFICERS OF THE NATIONAL GUARD.**Sec. 26.—Commissioned Officers.**

All officers shall be commissioned by the governor at his discretion; but no one shall be commissioned unless the conditions set forth in the next two sections have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissioned and shall have taken the oath of office.

Sec. 27.—Eligibility Required to Receive a Commission.

Commissioned officers must be citizens of the United States and of the age of 18 years and upwards. No person who has been expelled or dishonorably discharged from any military organization of the territory shall be commissioned unless he has re-enlisted and served as provided in this chapter. No person shall be commissioned unless he shall possess the additional requirements herein prescribed for the particular office he is to be commissioned. A brigadier general, at the time of

his appointment, must be an officer in active service in the national guard of this territory of the grade of field officer, and for three successive years immediately preceding his appointment he must have been in active service in said national guard as a commissioned officer. A colonel of a regiment, at the time of his appointment, must either be an officer in active service in the national guard of this territory, and for two successive years immediately preceding his appointment must have been in active service in said national guard as a commissioned officer, if not in active service at the time of his appointment, must have had prior service of at least three years in the national guard or in the army of the United States, or in both combined, as a commissioned officer. A lieutenant colonel and major of the line, at the time of his appointment, must either be an officer in active service, and for two successive years immediately preceding his appointment must have been in active service in the national guard of this territory, as a commissioned officer, or if not in active service at the time of appointment, must have had prior service of at least two years in the national guard of this territory, or in the army of the United States, or in both combined, as a commissioned officer. Staff officers or officers below the grade of brigadier general, except medical officers, veterinary surgeons, and chaplains, must have served one year immediately preceding their appointments in the national guard of this territory. Staff officers of the brigadier general, except judge advocates, surgeons and engineers, must be selected from the commissioned officers in active service in the national guard of this territory, who, for one year, immediately preceding their appointments, have been in active service in such national guard as commissioned officers. A judge advocate must be a counselor at law of the supreme court of this territory of at least five years' standing if of the grade of lieutenant colonel; of at least three years' standing if of the grade of major. Surgeons and assistant surgeons must be graduates of an incorporated school of medicine and of at least ten years' practice if of the grade of colonel; of at least five years' practice if of the grade of lieutenant colonel; of at least three years' practice if of the grade of major; of at least two years' practice if of the grade of captain and of at least one year's practice if of the grade of first lieutenant. An engineer officer of the national guard must have been educated as a military or civil engineer. A signal officer must have a knowledge of signaling, telegraphy, topography, and map making. A veterinary surgeon must be a graduate of an incorporated school of veterinary science. A chaplain must be a regularly ordained minister of some religious denomination.

Sec. 28.—Examination.

Before receiving a commission consequent upon an original appointment or election, or before being commissioned to a higher grade as a result of promotion, every officer must have passed a satisfactory examination before a board as to his knowledge of military affairs and general knowledge and fitness for the service, and any one failing to pass such examination shall not be eligible for an office in the militia of the territory or for promotion for the period of one year from the date of such failure. Judge advocate, medical officers, and veterinary surgeons shall be examined as to their general and professional knowledge and fitness for the service only. The following are exempt from examination: General officers, officers who immediately on the expiration of their term of office or resignation are re-appointed to the position they previously held, chaplains, and those mentioned in section 49 of this chapter.

Sec. 29.—Examining Board.

Boards of examination under the preceding section shall be appointed by the governor or caused by him to be appointed for the national guard by the commanding officer. Such boards shall consist of not less than three officers, and shall have the same power to take evidence, administer oaths, and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by general court martial.

When returns of appointments or proceedings of election are received by the board, the persons appointed or elected shall by it be ordered before it for examination, and the result of the examination, with all the papers in the case, shall be forwarded to the officer ordering the board.

Sec. 30.—Elected Officers.

Colonels and majors of separate battalions or squadrons shall be elected by the field officers and captains of the regiment, separate battalion, or squadron. Captains of troops, batteries, or companies shall be elected by the members of these organizations who shall have performed, during the period of not more than twelve months immediately preceding the election, at least sixty per cent. of the duty required of them, and who shall not be indebted at the time to the civil association of such troop, battery, or company, organized as provided in this chapter.

Sec. 31.—Appointed Officers.

The brigadier general, or the senior officer of the national guard who is to command it, shall be appointed by the governor.

The officers on the staff of the brigadier general commanding the national guard, the field officers of the line except colonels, the lieutenants of the line, officers of the signal corps, the extra officers allowed to regiments, battalions, and squadrons for staff duty, surgeons and assistant surgeons of regiments, and of battalions and squadrons not part of regiments, assistant surgeons of separate troops, batteries, of companies, veterinary surgeons, and chaplains shall be appointed by the governor upon the recommendation of their commanding officers.

In case of original appointments from civil life the selection shall be made by the governor upon reliable recommendations, subject to the prescribed examination by a board of officers. When the governor desires to create new organizations, he shall have the power, in the first instance, to appoint all the officers necessary to commence and complete such organizations.

Sec. 32.—Elections.

The commanding officer of the national guard shall issue orders for the election of colonels of regiments and majors of separate battalions under their command. Colonels of regiments, and majors of separate battalions or squadrons, shall issue orders for the election of captains of organizations under their command. For the election of captains of separate troops, batteries, or companies the orders shall be issued by the respective brigade commanders.

The officer ordering an election shall detail an officer to preside thereat and shall give or cause to be given at least five days' notice to all the qualified voters when and where and for what office the election is to take place. Such notice shall be served on the persons entitled to vote at such election in the same manner as warnings for duty are given. The person or persons serving such notice shall make return of the person notified and of the manner of service. The return, if made by commissioned officer, shall be authenticated by his certificate on honor; if by a non-commissioned officer, by the oath of the person making such service. The oath may be administered by any person authorized to take the acknowledgment of deeds or by any commissioned officer, and such return shall be presented to the officer directed to preside at such election before the polls for such election shall be opened.

The commanding officer of the organization in which such election is held shall, before the polls are opened, present to the officer directed to preside, a list of the persons qualified to vote thereat and a list of persons disqualified, with a statement

of the facts constituting such a disqualification. If such disqualification shall be caused by the non-payment of indebtedness, it may be removed by the payment of such indebtedness at any time before the poll shall be closed.

At the time fixed for the election, the officer ordered to preside thereat or in his absence an officer authorized by him to act for him, or in the absence of such an officer the commissioned officer highest in rank of those present, shall announce the purpose in hand and open the polls. If it shall happen at any election that legal notice has not been given to all the persons entitled to vote thereat, the presiding officer shall adjourn the meeting and cause such notice to be given; but the presence of a person entitled to vote at any election shall be deemed a waiver of his right to take exception to the want of legal notice to him.

If any person offering to vote at any election shall be challenged as unqualified, by any person entitled to vote thereat, the presiding officer shall declare to the person so challenged the qualifications of an elector, and if he shall state himself duly qualified, and the challenge shall not be withdrawn, the presiding officer shall examine him under oath and determine as to his qualifications as such elector.

As soon as all the electors have cast their votes, or at the expiration of one hour from the opening of the polls, the presiding officer shall declare the polls closed and at once publicly canvass the votes and declare the result of the election. A majority of the votes of all persons present voting at an election shall be necessary to a choice. The presiding officer shall forthwith notify the person elected in writing of his election.

If a person elected at any such election shall not, within ten days after being notified of his election, signify his acceptance to the presiding officer, he shall be considered as declining the office to which he shall have been chosen and a new election be held.

Should there be no choice, the presiding officer shall adjourn the meeting to a reasonable date, and at that meeting, open the polls for another election, and if such second meeting result in no choice, the governor shall be notified and may then fill the vacancy by appointment. The presiding officer shall forward the proceedings of an election in such manner as provided in the regulations issued under this chapter.

Sec. 33.—Appeal From an Election.

Every person thinking himself aggrieved by the proceedings at an election may appeal to the governor, by filing at the time

of the election with the presiding officer thereat notice of such intended appeal and forwarding a full statement of the grounds of such appeal within ten days from date on which the election took place.

The governor may direct, upon such appeal, an officer to take testimony in the case and to report his findings, and such officer shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by general court martial. ..

Sec. 34.—Oath of Office.

Every officer duly commissioned shall, within ten days after his commission is tendered to him, or within ten days after he shall have been notified personally or by mail that the same is held in readiness for him by a superior officer, take and subscribe the constitutional oath of office. Such oaths shall be taken and subscribed before an officer authorized by law to administer an oath, or some general or field officer or an officer who shall hold the assimilated grade of a field officer, who has taken the oath himself and who is hereby authorized to administer the same. In case of neglect or refusal to take and subscribe such oath within the time mentioned, such commission shall be cancelled by the governor and a new appointment shall be made or a new election shall be ordered to fill the vacancy.

Sec. 35.—Brevet Commissions.

The governor may, upon the recommendation, of their commanding officers, confer brevet commissions of a grade next higher than the ordinary or brevet commission ever held by them, upon officers of the national guard in active service for gallant conduct or meritorious service of not less than twenty-five years. He may also confer upon officers in active service in the active militia, who have previously served therein in a higher grade, or who have previously served in the forces of the United States in time of war, brevet commissions of a grade equal to the highest grade in which they previously served. Such commissions shall carry with them only such privileges or rights as are allowed in like cases in the military and naval service of the United States.

Sec. 36.—Supernumerary Officers.

Commissioned officers who shall be rendered surplus by reduction or disbandment of organizations or in any manner provided by this chapter now or hereafter, shall be withdrawn from active service and placed upon the supernumerary list. The

governor may, upon the recommendation of the commanding officer of the national guard, detail supernumerary officers for active duty, in which case they shall rank in their grade from the date of such detail, and he may relieve them from such duty and return them to the supernumerary list at his discretion.

Sec. 37.—Resignations.

A commissioned officer tendering his resignation before having served five years, if the governor accept it, shall receive an honorable discharge; if he has served five years or more, he shall receive a full and honorable discharge: *Provided*, He shall not be under arrest or return to a military court for any deficiency or delinquency: *And Provided Further*, He be not indebted to the territory in any manner, and that all his accounts for money or for public property be correct. In computing the time served, service as an enlisted man shall be allowed, and the service is not required to be continuous. If the governor accept the resignation of an officer who at the time shall be under arrest, under charges or return to a military court for any offense, deficiency, or delinquency, such officer shall then cease to be an officer of the militia, and shall receive a discharge in such form as the governor shall direct, nor shall he be again eligible to receive a commission unless he first re-enlist, as provided in this chapter in the case of enlisted men dishonorably discharged, and until he shall have performed at least sixty per cent. of duty in each year under such enlistment for two successive years.

Sec. 38.—Retirement and Discharge.

Any officer of the active militia who has reached the age of sixty-four years may be placed upon the retired list of the government. Any commissioned officer who shall have served in the same grade for the continuous period of ten years, or in the military service of the territory as the commissioned officer for fifteen years, may, upon his own request, be placed upon the retired list and withdrawn from active service and command by the governor.

Any commissioned officer who has become or shall hereafter become disabled, and thereby incapable of performing the duties of his office, shall be withdrawn from active service and command and placed on the retired list. Any commissioned officer who has become or who shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall be discharged upon the recommendation of his commanding officer or the recommendation of an inspect-

ing officer. Such retirement or discharge shall be by the order of the government, and in either case, shall be subject to the provisions of this section. Before making such order, a board of not less than five commissioned officers, one of whom shall be a surgeon, shall be appointed, whose duty it shall be to determine the facts as to the nature and cause of incapacity of such officer as appears disabled or unfit, or incompetent, from any cause, to perform military service, and whose case shall be referred to it. No officer whose grade or promotion would be affected by the decision of such board, in any case that may come before it, shall participate in the examination or decision of the board in such case. Such board is hereby invested with the powers of courts of inquiry and courts martial, and whenever it finds an officer incapacitated for active service shall report such fact to the governor, stating cause of incapacity, whether from disability, unfitness or incompetency, and if he approves such finding, such officer shall be placed on the retired list or discharged, as provided in this article. The members of the board shall, before entering upon the discharge of their duties, be sworn to an honest and impartial performance of their duties as members of such board. No officer shall be placed upon the retired list or discharged by the action of such board without having had a fair and full hearing before the board, if upon due notice he shall demand it. It shall not be necessary to refer any case for the action of such board arising under this section, unless the officer designated to be placed upon the retired list or discharged shall, within twenty days after being notified that he will be so retired or discharged, serve on the adjutant general a notice in writing that he demands a hearing and examination before such board. Boards for the national guard shall be appointed by the governor for officers above the grade of colonel, and by the commanding officer of the national guard for officers below the grade of brigadier general. The governor may withdraw from active service and command and place upon the retired list any officer who has been twenty-five years in the active service of the national guard, on the recommendation of the commanding officer of his organization, the commanding officer of the brigade, and the commanding officer of the national guard. Vacancies created by the operation of this section shall be filled in the same manner as other vacancies.

Sec. 39.—Examination and Discharge of Officer.

The governor may, whenever he may deem that the good of the service requires it, order any commissioned officer before a board of examination, to consist of not less than three nor

more than five general or field officers, which is hereby invested with the powers of courts of inquiry and courts-martial, and such board shall examine into the moral character, capacity, and general fitness for the service of such commissioned officer, and record and return the testimony taken and a record of its proceedings. If the findings of such board be unfavorable to such an officer and be approved by the governor, he shall be discharged from the service. No officer whose grade or promotion would in any way be affected by the decision of such board, in any case that may come before it, shall participate in the examination or decision of the board in such case. Failure to appear when ordered before a board constituted under this section shall be sufficient ground for a finding by such board that such officer ordered to appear be discharged.

Sec. 40.—Dismissal.

An officer who shall have been absent without leave for a period of six months or more shall be dismissed by the governor.

Sec. 41.—Removal.

A commissioned officer cannot be removed from office without his consent, except by the council upon the recommendation of the governor, the sentence of a general court-martial, or as provided in this chapter.

ARTICLE 4.—ENLISTED MEN OF THE NATIONAL GUARD.

Sec. 42.—Enlistment.

Any man who is a citizen of the United States or has declared his intention to become a citizen, if more than 18 and less than 45 years of age, able-bodied, free from disease, of good character and temperate habits, may be enlisted in the national guard of this territory, under the restrictions of this article, for a term of not less than two years; except that men may be enlisted as musicians if more than 16 years of age.

No minor shall be enlisted without the written consent of his parent or guardian. A man who has been expelled or dishonorably discharged from any military organization of the territory or United States shall not be eligible for enlistment or re-enlistment unless he produce the written consent to such enlistment of the commanding officer of the organization from which he was expelled or dishonorably discharged, and of the commanding officer who approved such expulsion or issued such dishonorable discharge.

Men who have been discharged by reason of dishonorable discharge may be enlisted and shall then receive for the period served

at the time of such disbandment. A man discharged for physical disability shall, if such disability cease, and he again enlists, or a man discharged upon his own request shall, if he again enlists, receive credit for the period served prior to such discharge.

Bandmasters, drum majors, chief trumpeters, veterinary surgeons, members of the hospital corps, and musicians may be enlisted as such.

Sec. 43.—Re-Enlistments.

Any man who has served the period of his original enlistment may be re-enlisted for a term of one year or more. No man above the age of 45 years shall be re-enlisted except by permission of the commanding officer of the brigade to which the organization is attached.

Sec. 44.—Enlistment Papers.

Every person who enlists or re-enlists shall sign and make oath to an enlistment paper which shall contain an oath of allegiance to the territory and the United States, and be in such form as may be prescribed in the regulations issued under this chapter. Such oath shall be taken and subscribed to before a field officer, or the commanding officer of a signal corps, troop, battery, or company, who are hereby authorized to administer such oath; but no enlistment shall be valid until it be approved by the commanding officer of the organization to which the signal corps, troop, battery, or company is attached or of which it forms a part. A person making a false oath as to any statement contained in such enlistment paper shall, upon conviction, be deemed guilty of perjury.

Sec. 45.—Transfers.

Enlisted men may be transferred upon their own application in the same regiment or battalion or squadron not a part of a regiment, from one company or troop to another, by the commanding officer of such a regiment, battalion, or squadron; from one regiment, battalion or squadron not part of a regiment, signal corps, separate troop, battery or separate company, to another in the same brigade, by the commanding officer of the brigade; from one brigade to another, by the commanding officer of the national guard. Non-commissioned officers must be returned to the ranks before they can be transferred.

Sec. 46.—Non-Commissioned Officers.

Commanding officers of regiments and of battalions and squadrons not part of regiments shall appoint and warrant the

missioned staff officers of their respective regiments, battalions or squadrons; and they shall, in their discretion, warrant the non-commissioned officers of the troops, batteries, and companies of their respective regiments, battalions, and squadrons from the members thereof, upon the written nomination of the commanding officers of the troops, batteries, and companies respectively. In troops, batteries, and companies not part of a regiment, battalion, or squadron, and in signal corps, the non-commissioned officers shall be warranted by the commanding officer of the brigade in his discretion, from the members thereof, upon the written nomination of the commanding officer of the troop, battery, company, or signal corps. No enlisted man shall be warranted as a non-commissioned officer unless he shall have passed a satisfactory examination before a board of examiners to be appointed by the officer authorized to issue such a warrant. To be eligible for appointment as sergeant, first class, of the hospital corps, a candidate must be a registered pharmacist. A sergeant of the hospital corps must be appointed from the hospital corps. The officer warranting a non-commissioned officer shall have power to reduce to the ranks, for good and sufficient reasons, the non-commissioned officers named in this section; but such as were enlisted as non-commissioned officers shall be discharged. Non-commissioned officers who shall be dropped vacate their positions.

Sec. 47.—Dropping From the Rolls.

An enlisted man who shall remove his residence to such distance from the armory of his organization as to render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found, or who shall be convicted of a felony, or who shall be expelled from his organization in accordance with by-laws lawfully adopted, may be dropped from the rolls of his company, battery, troop, or signal corps by order of the commanding officer of the brigade, regiment, battalion, or squadron not part of a regiment.

Sec. 48.—Taking Up From Dropped.

An enlisted man dropped by reason of removal may be taken up at any time within three years after such removal in his former or any other organization, obtaining in the latter case first the written permission of his former commanding officer approved by the officer upon whose order he was dropped. An enlisted man dropped for removal may be taken up at any time after three years after such removal, upon his own application, approved by the officer upon whose order he was dropped.

The taking up shall be done under the orders of any officer who is authorized to order the dropping of men; and men thus taken up shall receive credit for the time served having been dropped.

Sec. 49.—Retirement.

The governor may appoint enlisted men and commission them, without examination, second lieutenants by brevet, upon the recommendation of their respective commanding officers, and place them upon the retired list at the same time, provided they have well and faithfully served the territory in the national guard for a period of twenty-five years.

Sec. 50.—Discharge.

An enlisted man who has not returned all the public property for which he is responsible shall, under no circumstances, receive a full and honorable discharge.

A discharge, or an honorable discharge, at the discretion of the officer discharging him, shall be granted to the following:

A non-commissioned staff officer or a non-commissioned officer, who, had he not been enlisted as such, would be reduced to the ranks;

An enlisted man at his own request, provided he assign sufficient and valid reason for such request;

An enlisted man who by reason of disability is no longer able to perform his military duties properly;

An enlisted man who by the reduction of his regiment, battalion or squadron has become surplus, or whose signal corps, troop, battery, or company shall be disbanded: *Provided*. He is not entitled at the time to a full and honorable discharge;

An enlisted man who has served the time for which he enlisted or re-enlisted and is not entitled to a full and honorable discharge.

A full and honorable discharge shall be granted to the following:

An enlisted man who shall have performed in each year at least 50 per cent. of the duty his signal corps, troop, battery, company, squadron or battalion not part of a regiment or regiment has been required by law and orders to perform during his term of enlistment or re-enlistment, or during his total service in case the same has been extended beyond the term for which he enlisted. An enlisted man who fails to perform 50 per cent. of duty during any year of his service may continue in service at the option of his commanding officer and make up such deficiency. An enlisted man who continues in service after the expiration of his term of enlistment or re-enlistment

shall, in case he desires a discharge, give fifteen days' notice of application therefor to the officer authorized to grant the same, and such officer may in his discretion grant such discharge forthwith or hold the same until the expiration of said fifteen days. An enlisted man shall be held for service until his discharge is granted and issued.

Dishonorable discharge shall be given to the following:

An enlisted man, fined by any military court, who shall neglect or refuse to pay such fine within thirty days after it was imposed;

An enlisted man whose immediate commander applies to have him discharged for the good of the service, after giving him ten days' notice of such application and an opportunity to be heard in defense of his conduct.

The discharges mentioned above shall be granted by the commanding officer of the regiment, battalion or squadron not part of a regiment; in the case of signal corps, separate troops, batteries and separate companies, by the commanding officer of the brigade to which they are attached.

Enlisted men may be dishonorably discharged pursuant to the sentence of a general court martial.

ARTICLE 5.—SERVICE OF THE NATIONAL GUARD.

Sec. 51.—War Service.

For all purposes under this act, officers and enlisted men of the active militia who entered the United States service in the Spanish-American war shall, on re-entering the active militia, be entitled to credit for time served in the forces of the United States in that war, as if this service had been rendered in the active militia.

Sec. 52.—Responsibility for Efficiency.

The officer commanding the national guard may cause those under his command to perform any military duty and shall be responsible to the governor for the general efficiency of the national guard and for the drill, instruction, inspection, small-arms and artillery practice, movements, operations, and care of the troops.

Commanding officers of organizations shall be responsible to their immediate commanders for the equipment, drill, instruction, movements, and efficiency of their respective commands.

All commissioned officers and enlisted men shall be responsible to their immediate commanding officers for prompt and unhesitating obedience, proper drill, and the preservation and proper use of the property of the territory or organization in their possession.

Sec. 53.—Drills and Parades.

Officers and enlisted men of each troop, battery, and company shall assemble for and undergo drill and instruction at company, battalion, or regimental armories (troop, squadron, or battery armories for cavalry or field artillery) or rendezvous, or for target practice, not less than twenty-four times during each calendar year preceding the annual allotment of funds under section 1661, Revised Statutes of the United States, as amended. During the same period there shall be at least one inspection of each troop, battery, and company by an officer of the national guard, or by an officer of the regular army of the United States, at such times as the governor may direct.

In addition to such drills and parades, the commanding officer of any organization may require the officers and enlisted men of his command to meet for parade drill or instruction at such times and places as he may appoint.

Sec. 54.—Camp Practice, Etc.

Each troop, battery, or company not especially excused by the governor will be required to participate for at least five consecutive days annually in practice marches or camps of instruction, under such regulations as the governor may prescribe, and under such instructions as he may appoint.

Sec. 55.—Small-Arms Practice.

To encourage marksmanship, the governor is authorized to offer a territorial decoration, not exceeding \$50.00 in value, for competition among the organizations of the national guard, armed with rifles, carbines, and three prizes of the value of \$25.00, \$15.00, and \$10.00 respectively, to be awarded to the three companies or troop having the highest general figure or merit. The governor may also, in his discretion, provide suitable decorations and prizes for proficiency in practice with light guns. All such prizes to be competed for under regulations prescribed by the commanding officer of the national guard approved by the governor.

Sec. 56.—Conduct of Commanding Officer in Aid of Civil Authorities.

In case of any breach of the peace, tumult, riot, or resistance to process of this territory, or imminent danger thereof, a justice of the supreme court, a county judge or recorder, or city judge of a city, or sheriff of a county, or mayor of a city, may call for aid upon the commanding officer of the national guard

stationed therein or adjacent thereto; such call shall be in writing. The commanding officer upon whom the call is made shall order out, in aid of the civil authorities, the military force or any part thereof under his command, and shall immediately report what he has done and all the circumstances of the case to the governor and the commanding officer of the national guard. If it appear to the governor that the power of the county be not sufficient to enable the sheriff to preserve the peace and protect the lives and property of the peaceful residents of this county, or to overcome the resistance to process of this territory, the governor must, on the application of the sheriff, order out such military force from any other county or counties as is necessary.

When an armed force is called out for the purpose of suppressing an unlawful or riotous assembly, it must obey the orders in relation thereto, of the civil officer calling it out and render the required aid. The orders of the civil officer may extend to a direction of the general or specific object to be accomplished and the duration of service by the active militia, but the tactical direction of the troops, the kind and extent of force to be used, and the particular means to be employed to accomplish the object specified by the civil officers are left solely to the officers of the active militia. In case of any breach of the peace, tumult, riot or resistance to process of this territory, or imminent danger thereof, the sheriff of a county may call for aid upon the commander-in-chief of the national guard. If it appears to the governor that the power of the county be not sufficient to enable the sheriff to preserve the peace and protect the lives and property of the peaceful residents of the county, or to overcome the resistance to process of this territory the governor must on the application of the sheriff order out such military force as is necessary.

Sec. 57.—In Case of Insurrection or Invasion.

In case of insurrection or invasion or imminent danger thereof within the limits of any command, the senior commanding officer of such command shall order out for the defense of the territory the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the governor and the commanding officer of the national guard. In case of insurrection or invasion, or imminent danger thereof, the governor shall order out for the defense of the territory such forces as he may deem necessary.

Sec. 58.—Warning for Duty.

Orders for duty may be oral or written. Officers and enlisted men may be warned for duty as follows:

Either by stating the substance of the order, or reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at the last known place of abode or business of such person with some one of suitable age and discretion, or by sending a copy of such order or a notice containing the substance thereof to such person by mail, directed to him at his last known place of abode or business, or to the postoffice nearest thereto. Such warning may be given to any officer or non-commissioned officer. The officer or non-commissioned officer giving such a warning shall make a return thereof containing the names of the persons warned, and the time, place, and manner of warning. Such return shall be verified by his oath, which may be administered by any commanding officer; such verified return shall be as good as good evidence, on the trial of any person as a delinquent of the facts therein stated, as if such officer or non-commissioned officer had testified to the same before the delinquency court on such trial. Every commanding officer shall make the like return, on honor, and with like effect, of every delinquency and neglect of duty of his officers and non-commissioned officers, and also of every enlisted man who shall refuse or neglect to perform such military duty as may be required.

Sec. 59.—Excuses From Duty.

The officer ordering any military duty shall have the power to excuse any officer or enlisted man for absence therefrom upon good and sufficient ground.

Sec. 60.—Discipline and Exercise.

The system of discipline and exercise of the national guard of this territory shall conform generally to that of the army of the United States as it is now or may hereafter be prescribed by the president, and to the provisions of the laws of the United States, except as otherwise provided in this chapter.

ARTICLE 6.—MILITARY COURTS.**Sec. 61.—Military Courts.**

The military courts of this territory shall be:

1. General courts-martial.
2. Garrison courts-martial.
3. The summary court.

4. Courts of inquiry.

5. Delinquency courts, which are two kinds: (1) For officers, (2) for enlisted men.

The constitution and jurisdiction of courts-martial; the form and manner in which the proceedings of military courts shall be conducted and recorded and the forms of oaths and affirmations taken in the administration of military law by such courts; the limits of punishment and the proceedings in revision shall be governed by the articles of war and the law and procedure of the courts-martial of the United States.

Sec. 62.—Indemnity for Action of Military Courts.

No action or proceeding shall be prosecuted or maintained against a member of a military court or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of a fine or penalty, or the execution of any warrant, writ, executions, process, or mandate of a military court.

Sec. 63.—Presumption of Jurisdiction.

The jurisdiction of the courts and boards established by this chapter shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

ARTICLE 7.—ARMS, UNIFORMS, AND EQUIPMENTS OF THE NATIONAL GUARD.

Sec. 64.—Organizations.

All organizations shall be provided by the territory with such arms, equipments, colors, camp and garrison equipage, books of instruction and of record, and other supplies as may be necessary for the proper performance of the duty required of them by this chapter; and each organization shall keep such property in proper repair and in good condition.

Every commissioned officer shall provide himself with the arms, uniforms and equipments prescribed and approved by the governor.

Sec. 65.—Enlisted Men.

Every enlisted man who enters the service of the territory for two years shall be furnished by the territory with a service uniform corresponding in make and general appearance to the service uniform of the United States army.

Sec. 66.—Dress Uniform.

Regiments, battalions and squadrons not part of regiments may, with the consent of the governor, adopt a dress uniform of their own and at their own expense.

Sec. 67.—Responsibility for Public Property.

Every officer and enlisted man to whom public property of the territory has been issued shall be personally responsible to the territory for such property, and no one shall be relieved from such responsibility, except it be shown to the satisfaction of the governor that the loss or destruction of such property was unavoidable and in no way the fault of the person responsible for the same; in all other cases the value of the property lost or destroyed shall be charged against the person at fault or to the organization to which it had been issued, and such person or organization, if not relieved from such charge by the governor, shall pay the value of such property to the adjutant general within two years after such loss or destruction. The value of lost or destroyed property and the person or organization to be charged therewith shall be determined by a board to consist of an inspector on the staff of the commanding officer of the national guard and the commanding officer of the organization in which such property is lost. In case of disagreement such value shall be fixed by the commanding officer of the national guard.

ARTICLE 8.—ARMORIES.**Sec. 68.—Armories.**

Armories for the use of the national guard shall be built by the territory upon ground to be furnished by the local government.

The necessary funds for the repairs of armories shall be provided by appropriations of the territorial government, but all expenses for maintenance, heating, lighting, etc., shall be borne by the local authorities.

ARTICLE 9.—PAY AND ALLOWANCES.**Sec. 69.—Duty Pay.**

Each officer and enlisted man ordered for duty by the governor, or under his authority by the commanding officer of the national guard, shall receive the duty pay herein specified for every day actually on duty, except when so ordered for inspection, muster or small arms practice, or parade or review or field service not extending beyond one day.

When on duty or assembled therefor in case of riot, tumult, breach of the peace, insurrection, invasion or war, whenever

called in aid of the civil authorities, or when engaged in actual field or camp service for instruction or as contemplated in section 14 of the act of congress approved January 21, 1903, commissioned officers and enlisted men shall be entitled to and shall receive at least, the same pay as commissioned officers and enlisted men of the army of the United States of equal grade. Each officer and enlisted man, mounted and equipped, shall be paid a reasonable compensation per day for each horse actually used by him.

Sec. 70.—Pay When Aiding the Civil Authority.

All officers and enlisted men, while on duty or assembled therefor, pursuant to the orders of a judge of the supreme court, sheriff of a county, or mayor of a city, or any other civil officer authorized by law to make such a demand on the military forces of the territory, in case of riot, tumult, breach of the peace, resistance to process, or whenever called upon in aid of civil authorities, shall receive the pay set forth in section 69 of this chapter; and such compensation and the necessary expenses incurred in quartering, caring for, warning for duty, and transporting and subsisting the troops, as well as the expense incurred for pay, care, and subsistence of officers and enlisted men temporarily disabled in the line of duty, while on such duty, as set forth in section 75 of this chapter, shall be paid by the territory. The territorial treasurer, upon the presentation to him of vouchers and pay rolls for such expenses and compensation, certified by the officers commanding such forces, and approved by the adjutant general, shall pay such vouchers and pay rolls out of any moneys in the territorial treasury not otherwise appropriated, should the vouchers and pay rolls not exceed in amount the sum of \$5,000.00. If the vouchers and pay rolls for such service exceed the amount of \$5,000.00 thus he shall forthwith execute in behalf of and in the name of said territory, a certificate or certificates of indebtedness for the money required to pay such vouchers and pay rolls; such certificates shall bear interest at the rate of not to exceed four per cent. per annum and shall be made payable on the first day of February following the expiration of two months from their issue, and the amount thereof shall be raised in the next tax budget of the said territory succeeding their issue, and applied to the payment of such certificates. Said territorial treasurer shall sell such certificates at public or private sale, and apply the proceeds thereof to the payment of such expenses and compensation. Any territorial treasurer or public officer who shall neglect or refuse to perform any of the duties required by this section shall be personally charged with

the cost and all necessary disbursements of any action or proceeding brought to compel such performance, together with a reasonable additional allowance to the plaintiff or relator in such action or proceeding, to be fixed by the court.

Sec. 71.—Pay of Officers Serving on Boards, Commissions and Courts.

All officers detailed to serve on any board or commission ordered by the governor, or under his authority by the commanding officer of the national guard, or on any court of inquiry, court-martial or delinquency court, ordered by proper authority in pursuance of any provision of this chapter, shall be paid a sum equal to one day's duty pay for each day actually employed in such board or court, engaged in the business thereof, or in traveling to and from the same. The sum in no case shall exceed five days' pay and actual traveling expenses and subsistence, unless, upon application of the judge advocate of a court-martial or the presiding officer of a delinquency court, or the presiding officer of the board, the officer appointing the court or board has authorized such court or board to sit for a longer period, or in case of such delinquency court, the governor or the officer ordering such court has authorized such court to sit a longer period than five days. An officer detailed to serve on a delinquency court for the trial of enlisted men shall be paid for each day actually employed therein, engaged in the business thereof, or in traveling to and from the same, and traveling expenses and subsistence when such court shall be held at a place other than the city or town of his residence. An officer to whom a warrant for the collection of fines, dues, or penalties under the sentence of a military court is delivered shall be paid, by retaining for his own use, twenty-five per centum of the fines, dues or penalties collected by him. Said percentage shall be taxed by the officer issuing the warrant and indorsed thereon and added to the amount collectable to satisfy the sentence of the court. In addition to this percentage a marshal of a military court shall be paid two dollars for each day actually employed in the execution of the duties required of him and mileage or actual necessary traveling expenses while engaged in executing any process or mandate of a military court. Mileage shall be computed at the rate of ten cents for each mile necessarily traveled going and returning to serve any process or mandate of a military court, the distance to be computed from the place where it is served to the place where it is returnable.

Sec. 72.—Payment of Expenses of Delinquency Courts for Enlisted Men.

The compensation and necessary expenses of the officer holding a delinquency court for enlisted men, and of the clerk and marshal thereof, and the actual expenses of the court for the time engaged in the trial of enlisted delinquents, and the necessary business connected therewith, shall be paid by the organizations of which the delinquents are members, and to whose military fund fines collected from such delinquents are paid, from the military fund of such organization, in the same manner as other accounts are paid from such fund.

Sec. 73.—Pay of Officers and Enlisted Men Assigned to Special Duty.

Any commissioned officer assigned to special duty by the governor or under his authority shall be paid duty pay for the time actually employed, and his necessary traveling expenses and subsistence, when such payment is authorized by the governor. Judge advocates shall be paid for service in bringing any suits provided for in this chapter, and for service in actions or proceedings by *habeas corpus*, *certiorari* or otherwise, such compensation as shall be approved by the governor. All staff officers shall be paid duty pay for special service ordered by competent authority, with the approval of the governor. Enlisted men, on duty under the orders of the governor, but not at the time serving with troops, shall receive duty pay, their actual traveling expenses and subsistence.

Sec. 74.—Allowance for the Office of the Adjutant General.

There shall be allowed to the adjutant general of the territory for his salary \$1,200 annually, payable monthly. The necessary traveling expenses and office expenses, including printing, stationery, postage and expressage, shall also be allowed.

Sec. 75.—Pay and Care When Injured or Disabled In Service.

A member of the national guard who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, insurrection or invasion, or whenever ordered by the governor, commanding officer of the national guard, or called in aid of the civil authorities, receive any injury, or incur or contract any disability or disease, by reason of such duty or assembly therefor, or who shall without fault or neglect on his part be wounded or disabled while performing any lawfully ordered duty, which shall temporarily incapacitate him from pursuing his usual business or occupation, shall, during the period of such incapacity, receive the pay provided by this chapter and

actual necessary expenses for care and medical attendance. All claims arising under this section shall be inquired into by the board of three officers, at least one being a medical officer, to be appointed upon the application of the member claiming to be so incapacitated by the commanding officer of the national guard. Such board shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court-martial. The findings of the board shall be subject to the approval of the commanding officer of the national guard. The reviewing officer may return the proceeding of the board for revision and for taking further testimony. The amount found due such member by said board to the extent that its findings are approved by the reviewing officer thereof, shall be a charge against and be paid by this territory, in like manner as other military accounts are paid.

ARTICLE 10.—PRIVILEGES, PROHIBITIONS AND PENALTIES.

Sec. 76.—Exemption From Civil Process.

No person belonging to the active militia of the territory shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

Sec. 77.—Right of Way.—Freedom From Interference.

Commanding officer of any portion of the active militia parading or performing any military duty in any street or highway may require any or all persons in such street or highway to yield the right of way to such militia, provided the carriage of United States mail, the legitimate functions of the police, and the progress and operations of the hospital and ambulances and fire engines and fire departments, and apparatus of the insurance patrol shall not be interfered with thereby. All others who shall hinder, delay, or obstruct any portion of the active militia wherever parading or performing any military duty, or who shall attempt to do so, shall be guilty of a misdemeanor.

Sec. 78.—Free Passage Through Toll-Gates, Etc.

Any person belonging to the military forces of the territory, going to or returning from any parade, encampment, drill, or meeting which he may be required by law to attend, shall, together with his conveyance and military property of the territory in his charge, be allowed to pass free through all toll-

gates and over all toll-bridges and ferries, if he is in uniform or presents an order for duty or certificate of membership of the active militia.

Sec. 79.—Exemption From Jury Duty.

Every member of the active militia shall be exempt from all jury duty, and poll and road tax provided he shall furnish the certificate of his immediate commanding officer that he has performed the duties required of him for the year immediately preceding.

Sec. 80.—Unlawful Conversion of Military Property.—Unlawful Wearing of Uniforms and Devices Indicating Rank.

Any person who shall secrete, sell, dispose of, offer for sale, purchase, retain after demand made by a commissioned officer of the national guard, or in any manner pawn or pledge any arms, uniforms, equipments, or other military property, issued under the provisions of this chapter, and any person who shall wear any uniform or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank or office, such as are by law or by general regulation, duly promulgated, prescribed for the use of the active militia or similar thereto, except members of the army and navy of the United States and the national guard of this or any other territory, officers of the independent military organizations so designated in section 82 of this chapter, members of associations wholly composed of soldiers honorably discharged from the service of the United States and members of the order of sons of veterans, shall be guilty of a misdemeanor, and upon conviction fined in any sum not less than five dollars nor more than one hundred dollars, before a justice of the peace or district court, and, in addition thereto, shall forfeit to the people of this territory \$100 for each offense, to be sued for in the name of the people by the judge advocate. All moneys recovered by any action or proceeding under this section shall be paid to the adjutant general, who shall apply the same to the use of the active militia.

Sec. 81.—Trespassers and Disturbers to Be Placed in Arrest.—Liquors and Huckster Sales Prohibited.

The commanding officer upon any occasion of duty may place in arrest during the continuance thereof any person who shall trespass upon the camp ground, parade ground, armory, or other place devoted to such duty, or shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to or restraining from any duty. He may prohibited and prevent the sale or use of all spirituous liquors, wine, ale or beer, the holding of huckster or auction sales, and

all gambling within the limits of the post, camp ground, place of encampment, parade or drill under his command, or within such limits not exceeding one mile therefrom as he may prescribe. And he may in his discretion abate as common nuisances all such sales.

Sec. 82.—Military Parades By Unauthorized Bodies Prohibited.

No body of men, other than the regularly organized corps of the national guard and militia and the troops of the United States, except such independent military organizations as now are in existence, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this territory.

No city or town shall raise or appropriate any money toward arming or equipping, uniforming, or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers honorably discharged from the service of the United States or members of the order of sons of veterans may parade in public with firearms on Decoration Day or upon the reception of any regiments or companies of soldiers returning from such service, and for the purpose of escort duty at the burial of deceased soldiers; and students in educational institutions where military science is a prescribed part of the course of instruction may, with the consent of the governor, drill and parade with firearms in public under the superintendence of their teachers. This section shall not be construed to prevent any organization authorized to do so by law from parading with firearms, nor to prevent parades by the national guard of any other territory.

Sec. 83.—Provision as to Amendatory and Repealing Statutes.

No section or provision of this chapter or any part thereof shall be deemed to be repealed, altered, or amended by any statute passed by the legislature unless such statute explicitly refers to this chapter as the military code, or by its other titles as part of the general laws or annual legislation and explicitly repeals, alters, or amends the same or some part thereof.

Sec. 84.—Duties By Title of Office.

The duties assigned to an officer by title in this chapter shall devolve, in case of absence or disability to command of the officer named, upon the line officer next in rank, except as otherwise provided in this chapter.

Sec. 85.—Formation of Association.—By-Laws.

The officers of any regiment, or battalion or squadron not part of a regiment, and members of any troop, battery, company, signal corps, hospital corps, or field music may organize themselves into an association, of which the commanding officer shall be president, and by a vote of two-thirds of all their members, form by-laws, rules, and regulations not inconsistent with this chapter, and which conform to the system prescribed in general regulations and be submitted to the commanding officer of the national guard for his approval, and, when approved by him, such by-laws, rules and regulations shall be binding upon all commissioned officers and enlisted men therein, but they may be altered in the manner provided for their adoption, from time to time, as may be found necessary.

Sec. 86.—Violation of By-Laws.—Expulsion.

For violation of by-laws, rules and regulations of associations organized pursuant to this chapter, enlisted men, in addition to trial by a military court, may also be expelled from the organizations to which they belong by a vote of the majority of all its members, and upon such action being confirmed in orders by the commanding officer of the regiment, battalion or squadron not part of a regiment, and in case of an organization not part of a regiment, battalion or squadron by the officer to whose command it is attached, the name of such person shall be stricken from the roll of the organization of which he was a member, his certificate of membership shall be surrendered and cancelled, and he shall cease to be a member thereof, and his time of service in the same shall not be allowed.

Sec. 87.—Rules and Regulations.

The governor is hereby authorized to make such rules and regulations as he may deem expedient, but such rules and regulations shall conform to this act, and, as nearly as practicable to those governing the United States army, and when promulgated shall have the same force and effect as the provisions of this chapter. Such rules and regulations shall not be repealed, altered, amended, or added to, except by the commanding officer of the national guard with the approval of the governor. The rules and regulations in force at the time of the passage of this chapter shall remain in force until new rules and regulations are approved and promulgated. The United States army regulations and articles of war now in force, and those which may hereafter be in force, are hereby adopted, so far as the same may be practicable, for the government, regulation and discipline of the national guard of New Mexico.

Sec. 88.—Custom and Usage of the United States Army.

All matters relating to the organization, discipline and government of the national guard, not otherwise provided for in this act or in the general regulations, shall be decided by the custom and usage of the United States army.

Sec. 89.—Repealer.

All laws and parts of laws in conflict with this act are hereby repealed.

Whereas owing to the necessities of the service an emergency exists, therefore this act shall take effect upon the approval of the same by the governor.

CHAPTER 102.

AN ACT CREATING THE OFFICE OF TERRITORIAL IRRIGATION ENGINEER, TO PROMOTE IRRIGATION DEVELOPMENT AND CONSERVE THE WATERS OF NEW MEXICO FOR THE IRRIGATION OF LANDS AND FOR OTHER PURPOSES. *A. H. B. No. 98; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Natural waters belong to public.
- Sec. 2. Basis of water rights. Proviso.
- Sec. 3. Standard of measurement of flow and volume of water.
- Sec. 4. Amount of water allowed.
- Sec. 5. Water unused for four years regarded as unappropriated public water. Ownership of water run off land, after irrigation.
- Sec. 6. Means of diversion of water may be changed.
- Sec. 7. Owners to keep irrigation works in good repair. Violation, a misdemeanor. Penalty. Proviso.
- Sec. 8. When irrigation works exempt from taxation. Provisos.
- Sec. 9. Right of eminent domain for irrigation purposes.
- Sec. 10. Water rights to pass with land appurtenant thereto. Right held subject to local custom and rules.
- Sec. 11. Office of territorial irrigation engineer created.
- Sec. 12. Appointment. Term. Qualifications.
- Sec. 13. Oath. Bond.
- Sec. 14. Compensation of engineer. Office expenses. Proviso.
- Sec. 15. Engineer to make report to governor.
- Sec. 16. Engineer to make rules and regulations.
- Sec. 17. Duties of territorial irrigation engineer.
- Sec. 18. Solicitor general to be legal advisor of board of control.
- Sec. 19. Plans for construction of irrigation works to be approved by engineer. Provisos.
- Sec. 20. Engineer to inspect dams. Procedure when owners of dams fail to repair.
- Sec. 21. Clerk of each county to forward to engineer transcript of record relating to water rights. Proviso.

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- Sec. 22. Waters to be utilized by United States, not subject to appropriation under the laws of New Mexico.
- Sec. 23. Water divisions.
- Sec. 24. Irrigation commissioners. Board of control. Organization.
- Sec. 25. Irrigation commissioner to take oath and give bond. Compensation.
- Sec. 26. Meetings of board of control.
- Sec. 27. Duties of irrigation commissioner.
- Sec. 28. Appeals.
- Sec. 29. Method and manner of adjudication of water rights by board of control.
- Sec. 30. Statements of claimants to be under oath.
- Sec. 31. Commissioner to take testimony. Proviso.
- Sec. 32. Evidence to be open to inspection.
- Sec. 33. Rights to contest evidence. Hearing in contest to be before commissioner.
- Sec. 34. Commissioner to transmit all evidence and testimony to office of irrigation engineer.
- Sec. 35. Engineer to make examination, and measurement of streams and diversion marks.
- Sec. 36. Board of control to make record establishing order of priorities. Certificate of findings to be transmitted to claimants.
- Sec. 37. Appeals. Provisos.
- Sec. 38. Fees to be fixed by board of control.
- Sec. 39. Irrigation company may levy assessments.
- Sec. 40. Duties of commission of irrigation transferred to board of control.
- Sec. 41. How expenses to be paid. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. All natural waters within the limits of New Mexico are hereby declared to belong to the public, and no person shall be denied the right to appropriate said waters for beneficial use.

Sec. 2. Beneficial use shall be the basis, the measure, and the limit of the right to use water. Priority in time of use shall give the better right, and in all cases the claims to the use of water the right shall relate back to the initiation of the claim, upon the diligent prosecution to completion of the necessary preliminaries, and the construction of the works and means of diversion and appropriation; and all dams, ditches, canals, conduits, acequias, reservoirs, and other works heretofore made or constructed, by means of which any waters have been applied to any beneficial use, must be taken to have secured the right to use waters claimed, to the extent of the quantity, which said works are capable of conducting or utilizing: *Provided*, Nothing in this act must be so construed as to in any manner interfere with the vested rights of individuals, companies, or corporations, or the appropriation of waters, which said individual, association or corporation may be applying to a beneficial use.

Sec. 3. The standard of measurement of the flow of water shall be the cubic foot per second of time, flowing unobstructed,, to be known as the second foot, "the miner's inch,"

or "inch," shall be the one-fiftieth part of the second foot. The standard of measurement of the volume of water shall be the "acre foot," being the amount of water upon an acre covered one foot deep, which is (43,560) forty-three five hundred and sixty cubic feet.

Sec. 4. In the appropriation of water for irrigation, or in the adjudication of rights to the use of water for such purposes, the amount of water allowed shall not be in excess of the rate of one second foot of water for each seventy (70) acres of land.

Sec. 5. After the passage of this act, when a party entitled to the use of water fails to beneficially use, all or any part of said water, claimed, for a period of four years, such water shall revert to the public, and shall be regarded as unappropriated public water. All water, which after irrigation, runs off of the land, of the party who has used such water, or reappears on the surface, shall be taken to be subject to the control of the person, association or corporation who own or control the works which shall divert the said water from the stream or reservoir; whenever such person, association or corporation are not prepared to conduct such surplus water, to another place of use, any one may apply such water to any beneficial use, without any charge whatever, until such time as the party owning or controlling such irrigation works, shall be prepared to beneficially use such water.

Sec. 6. The place or means of diversion of water may be changed if others are not injured by such change; and the conduits by which such diversion is made, may be extended, to places beyond that where the first was made.

Sec. 7. The owners or constructors of canals, reservoirs, ditches, acequias, or other water works, whether the same be upon lands owned or claimed by them, or upon other lands, must carefully keep and maintain, all of said works, embankments, flumes or other conduits, by which such waters are, or may be held or conducted, in good repair, and condition, so as not to damage, or in any manner injure the property of others, obstruct public highways, by flooding or washing, or by not keeping good and sufficient bridges, or allowing needless waste of said waters by over-flow, evaporation, or by any other means. Any violation of the provisions of this section shall be a misdemeanor, and upon information filed by the district attorney, in the district court, and upon conviction thereof, the party so offending shall pay a fine of not less than ten, nor more than one hundred dollars, and be liable for the damage done: *Provided*, That if after notice by any interested party the governing body of said reservoirs, ditches or other water

works shall within ten days fully repair or replace such damage done, then they shall not be liable to prosecution under this section.

Sec. 8. All canals, ditches, reservoirs, acequias, artesian wells, or other water works, and the water rights appertaining thereto, when the owner or owners of said irrigation works use the waters thereof exclusively upon land or lands owned by him, her, or them, shall be exempt from taxation: *Provided*, In case any water be sold or rented from such irrigation works, then, and in that event, such irrigation works shall be taxed to the extent of such sales or rental: *Provided*, *Further*, That community ditches shall not be subject to taxation.

Sec. 9. Any person, association, or corporation may exercise the right of eminent domain, to acquire a right-of-way, for the storage or conveyance of water for beneficial use, including the right to enlarge existing structures, and to use the same in common, with the former owner. Such right-of-way shall in all cases be so located, as to do the least damage, to private or public property, consistent with proper use and economic engineering construction. Such rights-of-way shall be acquired, subject to review by the courts, in the manner provided by law for the taking of private property for public use; and such right-of-way shall extend only to a ditch, dyke, cutting, or other work sufficient for the purposes required. There is hereby granted, over all the lands, now or hereafter belonging to New Mexico, a right-of-way for canals, acequias, or other water works, and all transfers of territorial lands, hereafter made, shall contain a reservation of such rights-of-way.

Sec. 10. All rights to the use of waters recognized and confirmed by and under the provisions of this act, or by a decree of court, or hereafter otherwise required, shall be and become appurtenant to specified lands owned or controlled by the person or persons claiming the right to use the water, so long as the water can be beneficially used thereon, and shall pass with conveyance of the lands, for which the rights of such use is granted or applied. Such right shall always be held, subject to the local or community customs rules, and regulations, which may be adopted from time to time by a majority of the users from a common source of supply, canals or lateral from which such waters may be taken, when such rules or regulations have for their object the economical use of water. Any harmonious local custom or customs, in the matter of water diversion and distribution which are not detrimental to the public welfare, shall not be molested or changed, unless so desired by the per-

sons interested, and using said harmonious custom or customs, already established by them. *

Sec. 11. There is hereby created the office of territorial irrigation engineer. The administration of the public waters, subject to such regulations as may be prescribed by law, shall be under the general supervision of a territorial irrigation engineer, and the commission of irrigation as now organized by law, to be increased to six members, who together with the territorial irrigation engineer, shall be known as the board of control.

Sec. 12. The territorial irrigation engineer shall be appointed by the governor of New Mexico, as soon as may be after the passage of this act, and confirmed by the council and shall hold his office for a term of two years, or until his successor is appointed and shall have qualified. No person shall be appointed to the position of territorial irrigation engineer who has not had such theoretical knowledge and such practical experience and skill as shall fit him for the position. He shall keep his office in the capitol with fixtures, to be provided by the capitol custodian committee.

Sec. 13. Before entering upon the duties of his office the territorial irrigation engineer shall take the oath, as prescribed by law, for territorial officials. He shall file with the secretary of the territory, a bond in the penal sum of ten thousand (\$10,000.00) dollars, to be approved by the solicitor general, and conditioned upon the faithful discharge of his duties and for delivery to his successor of all property belonging to the public then in his possession or control.

Sec. 14. The territorial irrigation engineer shall receive a salary of two thousand dollars (\$2,000.00) per year, which shall be payment in full for all services rendered by him under this act, to be paid in like manner as other territorial officials are paid. He may employ office assistants and purchase supplies at a total additional expense not to exceed three hundred (\$300.00) dollars per year, or such amounts in addition as may from time to time be appropriated for his office. The territorial irrigation engineer shall be allowed railroad fare if actually paid, team hire and not to exceed three dollars per day for hotel bills and incidentals as traveling expenses while away from the office on official business: *Provided*, That he shall be allowed no expenses further than herein prescribed except for necessary help when actually engaged in field service to be paid upon sworn itemized vouchers, and in no case shall exceed five hundred dollars in any one year.

Sec. 15. The territorial irrigation engineer shall prepare for

the governor, at least thirty days preceding the regular session of the legislature, and at other times when so required by the governor, a full and complete report of the work of his office, with such recommendations for legislation as he may deem advisable.

Sec. 16. The territorial irrigation engineer shall make, all necessary general rules and regulations to carry into effect the duties devolved upon his office subject to the approval of the irrigation commission. All such rules and regulations, relating to applications, for permits to appropriate water, for inspection of works, for issuance of license, for the determination of rights to the use of water, and for charges for same, shall be made by the capitol board of control, also all rules for practice before said board.

Sec. 17. The territorial irrigation engineer shall make, or cause to be made, careful measurement of the flow of the various streams of New Mexico, whose waters are, or are likely to be used for beneficial purposes, commencing such work upon such streams as the board of control shall decide is in most need of such measurements and surveys. He shall collect facts and make surveys to ascertain suitable locations for reservoirs, where such reservoirs may be possible and beneficial, and shall as far as possible determine the cost of construction of such irrigation system, and all other facts obtainable in regard to quantity of water possible to be stored, the character and extent of lands that may be reclaimed from such reservoirs, together with all other information obtainable that may bear upon the subject and be beneficial to the public. He shall become conversant with the water-ways and the irrigable lands of New Mexico, and her needs as to irrigation matters; and shall furnish reasonable information, in regard to such matters, to the newspapers for the territory upon proper request; he shall keep full and complete record of all measurements taken, surveys, examinations or other valuable information, that may come into his possession concerning any of the duties of his office and of all acts wherein the public is interested, and all such records shall be public property and open to the inspection of the public at all times during business hours. The territorial irrigation engineer shall furnish any data that may be in his office, to, and he shall work in conjunction with the official of the national government, in the reclamation of the arid lands of New Mexico; he shall prepare or cause to be prepared all maps, and plats required for the use of the commissioner of public lands and shall be the locating agent, and expert engineering advisor of the land commission subject to the action of that body, but he shall receive no additional compensation

for such services except as is provided in this act. He shall give advice on any matters of a professional nature, wherein the public is interested, when called upon to do so, by any interested person, and he shall, free of charge, give information desired by any person as to the proper method of measuring water, or of constructing apparatus for such measurement, upon proper application being made and shall give special instructions to all mayordomos, or water masters, as to measurement of water so as to secure a just and uniform distribution of said water, upon application.

Sec. 18. The solicitor general shall be the legal advisor of the board of control, or any member thereof, and shall perform any and all legal duties necessary in connection with their official acts.

Sec. 19. All persons, associations, or corporations, who shall desire to construct, any dam or dyke, for the purpose of storing, appropriating or diverting any public waters, except as otherwise provided in this act, shall, in writing, immediately notify the territorial irrigation engineer of such intended appropriation or diversion, and for what purpose, and shall with due diligence complete the preliminaries and surveys and shall within a reasonable time submit duplicate plans, drawings and specifications of the proposed work to the territorial irrigation engineer, who shall as speedily as possible, and within sixty days, examine such plans, drawings and specifications, and if he approves them he shall affix his approval thereto and return one copy of each such plan, drawing or specification with his approval to the party or parties proposing to construct the works. If the territorial irrigation engineer shall disapprove such plans, drawings or specifications, he shall return the same with his written objections thereto and suggestions of change to the party or parties filing the same: *Provided*, When such dams or dyke is in the opinion of said engineer not of sufficient importance to have the provisions of this section applied to it, the said engineer shall have power, upon written application, to suspend the provisions of this section in regard to such dams or dyke. In case of works of great importance, especially where life or property would be endangered by the failure of such works, the territorial irrigation engineer may require excavations to be made to determine the character of the foundations, and require a statement of the facts in the case to be filed in his office before approving said plans, drawings or specifications, or he may, if the public interests, demands, visit the localities of such works before giving his approval, and no rights of any kind under the laws of New Mexico shall be obtained where the proposed works, as in the

section provided, have not been approved by the territorial irrigation engineer: *Provided*, This section shall not apply where less than two thousand dollars are to be expended in the construction of any such work.

Sec. 20. The territorial irrigation engineer shall inspect or cause to be inspected, as often as advisable, every dam, or embankment used for holding water in New Mexico, where the same holds water to the depth of ten feet or more, and if such dam or embankment is found to be unsafe, and life or property liable to be endangered by reason thereof, he shall order the owner or owners to repair the same so as to make it safe; and if such owner or owners shall neglect or refuse to repair the same after notice to that effect has been given in writing by the territorial irrigation engineer, he shall report the facts in the case to the judge of the district court, of the district in which said dam or embankment is situated, and said judge may summon such owner or owners, to appear before him, and if upon a hearing of the facts the judge is of the opinion that such dams or embankments are unsafe, he shall order the sheriff of the county to draw so much of said water as may be necessary from behind such dam or embankment, and to keep said water drawn off until such time as the orders of the territorial irrigation engineer shall be complied with.

Sec. 21. It shall be the duty of the clerk and recorder of each county in New Mexico within 90 days after this act becomes a law, to prepare and forward by registered mail at the expense of the county to the office of the territorial irrigation engineer a transcript of all records, duly certified relating to all water rights: *Provided*, He may forward any original records in his office, which have been duly recorded.

Sec. 22. Whenever the proper officers of the United States, authorized by law to construct irrigation works, shall notify the territorial irrigation engineer that the United States intends to utilize certain specified waters, the waters so described, and unappropriated at the date of such notice, shall not be subject to further appropriations under the laws of New Mexico, and no adverse claims to the use of such waters, initiated subsequent to the date of such notice, shall be recognized under the laws of the territory, except as to such amount of the water described in such notice as may be formally released in writing by an officer of the United States thereunto duly authorized.

Sec. 23. New Mexico shall be divided into six water divisions as follows: Division I, shall be and include, that portion

of New Mexico within the water-shed of the Rio Grande down to the third standard parallel north, and the first guide meridian west.

Division II, shall be and include all that portion of New Mexico east of the water-shed of the Rio Grande and north of the principal base line.

Division III, shall be and include all that portion of New Mexico within the water-shed of the Pecos river south of the principal base line.

Division IV, shall be and include all that portion of New Mexico west of the water-shed of the Pecos river east of the Oscura and San Andreas mountains, and south of the principal base line to, and all south of, the line between townships 8 and 9 south, east of the Rio Grande; and all of the water-shed of the Rio Grande, which empties into said river, on the south of Cowles' peak and the San Mateo mountains, and all west of the continental divide south of the Datil range.

Division V, shall be and include all that portion of New Mexico within the water-shed of the Rio Grande south of the third standard parallel north and west of the first guide meridian west; west of the Oscura and San Andreas mountains to, and north of the line between townships 8 and 9 south, east of said Rio Grande, and all the water-shed of the Rio Grande which empties into said river north of Cowles' peak and the San Mateo mountains, and all west of the continental divide, between Datil range and water-shed of the San Juan river.

Division VI, shall be and include all that portion of New Mexico within the water-shed of the San Juan river.

When found advisable the board of control may change boundaries of the several water divisions.

Sec. 24. There shall be an irrigation commissioner appointed by the governor, with the advice and consent of the council, from each of these six water divisions resident of the division where appointed, to serve for two years and until their successors are appointed, who together with the territorial irrigation engineer shall constitute the board of control as provided in this act. The board of control shall organize within sixty days after the appointment of its members as herein provided by the election of one of its members as president and one of its members as secretary.

Sec. 25. Each irrigation commissioner before entering upon the duties of his office shall take oath, and give a good and sufficient bond, in the penal sum of two thousand dollars for the faithful performance of the duties of his office, in like man-

ner as provided by this act for the territorial irrigation engineer. Whenever any moneys shall have reached the hands of the secretary, the board of control shall fix a sufficient bond for the security of such moneys and such bond shall be in a surety company approved by the board. Each irrigation commissioner shall be paid eight dollars per day, for every day actually consumed in the performance of his official duties, not exceeding one hundred days in each year, which shall be compensation in full for all services rendered under this act, and he shall be allowed all the actual and necessary expenses while attending to his official duties, which said expenses shall not exceed five dollars per day in addition to the cost of railroad fare, team hire or other means of travel. All expense accounts shall be subscribed and sworn to before an officer duly authorized to administer oaths before they shall be allowed or paid.

Sec. 26. The board of control shall meet on the first Monday in March of each year, at the office of the territorial irrigation engineer, and at such other times and places as may be agreed upon by a quorum of said board. A majority of the members of the board of control shall constitute a quorum for the transaction of business. Said board shall adopt all general rules and regulations to govern the operations in the various divisions, to carry into effect the duties devolved upon them and the purposes and intent of this act. The territorial irrigation engineer shall have a vote on all matters coming before the board, except appeals authorized by law, from his acts as territorial irrigation engineer.

Sec. 27. Each irrigation commissioner shall work in conjunction with the territorial irrigation engineer, and shall have general supervision of the administration of irrigation matters in his division; and he shall keep a full and complete record of all his official acts, and of any information in which the public may be interested which may come to his knowledge. All records relating to the office of his division shall be public records, open to public inspection, during business hours, and shall be transmitted to his successor in office.

Sec. 28. Any aggrieved person may appeal from the acts or decisions of a commissioner of irrigation, to the territorial irrigation engineer who shall promptly and at a stated time and place to be fixed by him, upon due notice to the parties, hear and determine the matter in dispute, and his decision shall be final, unless an appeal is taken within thirty days; all appeals from the acts or decisions of the territorial irrigation engineer shall be taken to the board of control; any member of the board, from whom appeal is taken, shall be disqualified to vote

on such appeal. All acts or decisions of the board of control, shall be subject to review by the district court in which such cases arise, if taken within sixty days after said decision by the board, and if not so taken such action by said board shall be conclusive and final.

Sec. 29. The board of control shall make all adjudications of water within New Mexico, subject to review by the district and supreme courts of the territory. Whenever it shall be decided by said board of control to adjudicate the waters of any stream and decide the prior rights, public notice shall be given, setting forth the date when the engineer will begin the measurements of the stream and works of diversion therefrom, and a day when a commissioner from the division in which this stream to be adjudicated is situated, shall begin the taking of testimony as to the rights of the parties claiming water therefrom. Said notice shall be published in at least two issues of a newspaper having general circulation in the locality of said stream, the publication of said notice to begin at least thirty days prior to the beginning of taking testimony. The commissioner taking such testimony shall have power to adjourn the taking of evidence from time to time, and from place to place, for the sake of convenience to the public or persons interested in such testimony.

Sec. 30. Each claimant shall be required to certify to his statements under oath, and the members of the board of control are hereby authorized to administer all oaths necessary in the performance of their official duties. All oaths so administered shall be done without charge, as also shall the furnishing of all blanks.

Sec. 31. Upon the date named in the aforesaid notice the commissioner shall begin the taking of said testimony and shall continue as speedily as possible until said testimony shall be completed: *Provided*: In case said commissioner is directly or indirectly interested in the waters of said stream, the taking of evidence as related to said stream shall be under the direction of another member of the board of control, as shall be deemed most expedient.

Sec. 32. Upon the completion of the taking of said evidence the commissioner shall at once give notice, in at least one issue of a newspaper, of general circulation, in that locality and by registered mail to each of the claimants, that upon a certain day, and in a place named in that notice, all of said evidence shall be open to inspection by the various claimants, and said commissioner shall keep said evidence open to inspection at said places not less than one nor more than five days.

Sec. 33. Should any claimant or claimants desire to contest

the evidence or rights of any other claimant they shall, within fifteen days after the testimony has been opened to public inspection, in writing notify the commissioner to that effect stating with reasonable certainty the grounds of their contest which statement shall be verified by the affidavit of the contestant, his agent or attorney, and said commissioner shall notify said contestants and the person, association or corporation whose rights are contested to appear before him, at such convenient place as the commissioner shall designate in such notice, at which time and place he shall conduct said hearing, subpoena witnesses, and take evidence, as is now provided by law for civil cases; all fees to witnesses to be paid by the party or parties against whom the contest shall be finally determined; the evidence in such proceedings shall be confined to the subjects enumerated in the notice of contest.

Sec. 34. Upon the completion of the evidence in the original hearing before said commissioner and the evidence taken in all contests, it shall be his duty to transmit all the evidence and testimony, in said adjudication to the office of the territorial irrigation engineer in person or by registered mail.

Sec. 35. It shall be the duty of the territorial irrigation engineer, or some qualified assistant, to proceed at the time specified in the notice to the parties on said streams to be adjudicated, to make a full and complete examination and measurement of said stream and the diversion works therefrom, the lands irrigated and those suitable of irrigation. Such observation and measurement shall be reduced to writing and recorded in his office and he shall make or cause to be made a map or plat on a scale of not less than one inch to the mile showing with substantial accuracy the course of said stream, the location of all the works of diversion and lands irrigated, for filing in his office.

Sec. 36. At the first regular meeting of the board of control, after the completion of such measurements by the territorial irrigation engineer, and the return of said evidence by the commissioner of irrigation, it shall be the duty of the said board to make and cause to be entered of record in the office of the territorial irrigation engineer an order determining and establishing the several priorities of right to the use and the amounts of appropriations of water of said stream; and as soon as practicable thereafter it shall be the duty of said board to transmit by registered mail a certificate, duly signed by the president of the board of control, and attested under seal of said board by the secretary thereof, setting forth the findings of the board in each case, with the claimants priority number,

for each of the said claimants. Such certificate shall be first transmitted to the clerk of the county in which the claim is situated and by him recorded, in a book kept for that special purpose, the fee for making such record shall be one dollar, which sum shall be collected from the claimant, by the commissioner at the time of taking the testimony, and by the board of control paid to the county recorder taking a receipt therefor, and such receipt shall be kept on file in the office of the territorial irrigation engineer after such record said certificate shall be sent to the claimant to whom it belongs.

Sec. 37. Any party or parties feeling themselves aggrieved by the determination of the board of control may take an appeal to the district court in which such case arises, within sixty days after the recording of the determination of said board in the office of the territorial irrigation engineer. Appeals shall be allowed and may be taken by any person aggrieved to the supreme court of New Mexico within sixty days, from any final order of any district court. The procedure shall be as provided by law for civil suits on appeal: *Provided*, That the final order of the board of control or of any member thereof in adjudicating water rights where no appeal is taken as provided herein under the provisions of this law or the final decree of any court upon appeal, shall determine the priority of such water right, quantity and the use thereof, and thereafter such rights shall be administered by the territorial irrigation engineer or the board of control in accordance with said order or decree: *Provided, Further*, That the board of control or any member thereof, shall have no power to hear, determine or adjudicate any rights affecting community ditches or acequias, except by consent of all parties interested, using water from said community ditches or acequias.

Sec. 38. The board of control shall fix fees for all matters coming before said board; all moneys collected by the board of control or by any member thereof under the provisions of this act, shall be paid into the fund for the maintenance of said board of control.

Sec. 39. Any ditch or irrigation company may levy assessments against the stock of said company, held by those using water from such works and others to maintain said works, or for improvements.

Sec. 40. Nothing in this act shall be construed to amend or change in any way the duties and powers of the commission of irrigation, as now existing under the laws of New Mexico, but hereafter said duties shall be performed by the board of control herein provided.

Sec. 41. Until otherwise provided by law all of the ex-

penses of the administration of this law, including the salary of the territorial irrigation engineer, and the expenses of this office, the per diem and necessary expenses of the six members of the board of control and any other expenses necessary in the administration of the provisions of this law shall be paid out of moneys derived from the sale of lands pasturage permits given, or other revenues derived from lands granted to the Territory of New Mexico under the act of congress, June 21, 1898, for the purpose of establishing permanent reservoirs for the storage of water, and the improvement of the Rio Grande, and the increase of the surface flow of water of the bed of that river: *Provided*, That the territorial irrigation engineer shall not receive per diem, as herein provided for the other members of the board of control. The compensation and expenses provided to be paid shall be paid upon vouchers and warrants drawn and paid as other territorial officials are paid, as now provided by law.

Sec. 42. All acts and parts of acts in conflict with this act, are hereby repealed, and this act shall be in full force and effect upon and after its passage.

CHAPTER 103.

AN ACT AUTHORIZING BOARDS OF COUNTY COMMISSIONERS TO PROCURE CERTIFIED COPIES OF TOWNSHIP PLATS OF THEIR RESPECTIVE COUNTIES FOR USES OF COUNTY ASSESSORS AND FOR OTHER PURPOSES. C. A. to H. B. No. 94; Approved March 16, 1905.

CONTENTS.

Sec. 1. County commissioners to procure certified copies of township plats for use of county assessors.

Sec. 2. Certified copies to be filed in office of probate clerk.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That in order to facilitate the accurate description of lands and real estate in the territory, for the purpose of the better assessment and collection of taxes, the county commissioners of the various counties except the County of Taos, are hereby authorized to procure from the office of the surveyor general for the district of New Mexico, certified copies of the field notes and plats of township surveys in their respective counties; showing all entries to which title or right to title has been acquired from the government; and to pay for same

out of any funds available or by a special levy sufficient to cover such cost.

Sec. 2. Such certified copies when obtained, shall remain on file in the office of the probate clerk and ex-officio recorder of the county and shall be for the use of the county commissioners, county assessor and county surveyor; and the same may also be used as evidence of the matters thereby shown in any cause, civil or criminal, in the courts of this territory.

Sec. 3. This act shall be in force and effect thirty days after its passage.

CHAPTER 104.

AN ACT TO BE ENTITLED AN ACT TO REGULATE FOR THE APPROPRIATION OF WATERS FOR MINING, MILLING, AGRICULTURAL AND OTHER USEFUL PORPOSES. *A. H. B. No. 21; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Statement of intention to divert unappropriated waters, to be filed with probate clerk. Contents of statement.
Sec. 2. Time for completion of diversion. *Proviso.*
Sec. 3. Party filing notice to have exclusive use of unappropriated waters. *Proviso.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Any person, company or association which may desire to divert and appropriate unappropriated waters flowing through any natural channel or stream for agricultural, mining, milling, mechanical or other useful purposes, may file in the office of the probate clerk of the county wherein it is sought to make such appropriation or diversion, a written statement or notice thereof; which statement or notice shall contain the following:

First. A description as near as may be of the locality of the proposed diversion, naming if practicable the forty acre tract on which it is proposed to make the diversion with such other and more definite description as may be practicable.

Second. The amount of water sought to be appropriated.

Third. The purpose for which such appropriation is sought to be made.

Fourth. Where the diversion is sought to be made for agricultural purposes, the parties seeking to make such appropri-

tion shall have the right to construct a ditch from the point of diversion to the point of appropriation, and where the appropriation is sought to be used to create a power for operating machinery of any kind, then such parties shall have a right to convey its line by means of poles or ditches by the nearest practicable route from the point of diversion to the point of appropriation. And if such route or right-of-way passes over any lands belonging to the United States or the Territory of New Mexico, such party may have right-of-way free of cost. But if said line of right-of-way should be constructed over the land of any citizen then the party seeking such right-of-way shall pay a reasonable compensation to the owner of the land through which said right-of-way passes; such compensation to be ascertained by a commission composed of three disinterested persons to be named by the judge of such judicial district. And in estimating the damage if any to the owner of such lands said commission shall take into consideration the benefit if any, to be derived by such owner by means of such construction.

Sec. 2. On the filing of the notice hereinbefore provided for the party proposing to construct such diversion shall have six months in which to begin, and eighteen months in which to complete such diversion and appropriation: *Provided, However,* That if by unavoidable circumstances such party is delayed, then and in that event on the making of proper showing it shall be the duty of the district judge of such district to allow such party a reasonable time within which to commence and complete such appropriation.

Sec. 3. From and after the filing of the notice herein provided for, the party so making and filing such notice, shall have and possess the exclusive use of all unappropriated waters sought to be diverted and appropriated or so much thereof as may be useful or necessary for the accomplishment of all purposes set out in such notice of appropriation: *Provided,* That the provisions of this act shall apply to cases in which the notice of appropriation herein provided for shall have been filed: *Provided,* That any such notice may be amended so as to conform to the provisions of this act and the benefit of such notice shall take effect from and after the filing thereof and shall be entitled to all the rights accruing to the priority of such filing: *Provided, Further,* That nothing in this act shall be so construed as to deprive any one now using water for agricultural, domestic or other purposes from the use of all the waters they may have heretofore diverted: *And, Provided, Further,* That this act shall not have any retroactive operation and shall not apply to dams, ditches, acequias, or any other ap-

propriation that have heretofore been made; the whole purpose of this act being to provide for and encourage the useful appropriation of waters now running to waste, and unappropriated.

Sec. 4. This act shall be in force thirty days after its passage.

CHAPTER 105.

AN ACT FOR THE RELIEF OF THE COUNTY OF QUAY. *H. B. No. 162; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Loan to Quay county. Interest. How loan to be used.
Sec. 2. County commissioners to levy tax annually, sufficient to raise one-fifth of amount loaned. "Territorial loan fund."

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The treasurer of the territory is hereby authorized and directed to loan to the said county of Quay the sum of two thousand dollars for the period of five years, to bear interest at the rate of five per cent. per annum, interest to be payable semi-annually; the obligation to be executed to the Territory of New Mexico therefor by the said County of Quay to be such as shall be prepared by the solicitor general of the Territory of New Mexico. That said amount shall be used for the purposes of aiding said county to hold a term of court for the trial of criminal and civil cases therein pending, and for said court to use the same as court fund.

Sec. 2. That the county commissioners of the County of Quay are hereby directed and required to assess, levy and collect in the same manner as the general taxes in said county are assessed, levied and collected, a sufficient amount of taxes each year after this date, to raise the one-fifth part of the said two thousand dollars, which said amounts as collected shall be retained in a special fund known as the "territorial loan fund" and shall be used solely and only for the purposes of paying the interest upon said loan and the principal thereof, and the same when collected and so placed in said fund shall be turned over to the territorial treasurer at the end of each fiscal year hereafter, to be credited by him upon the obligation of said County of Quay.

Sec. 3. This act shall be in full force and effect from and after its passage.

CHAPTER 106.

**AN ACT ENTITLED AN ACT TO PROVIDE FOR THE FURNISHING
OF PROPER BONDS BY TERRITORIAL AND COUNTY OFFI-
CIALS. A. H. B. No. 19, Approved March 16, 1905.**

CONTENTS.

- Sec. 1. Bonds of territorial officials to be furnished by trust companies. When personal sureties will be accepted. Proviso.
- Sec. 2. Bonds of municipal and county treasurers. Proviso.
- Sec. 3. Maximum price to be charged by surety or trust company furnishing bond to territorial or county officials. Penalty for overcharge.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That all bonds now required by law, or hereafter required by law to be given or furnished by all territorial and county officials, who receive, keep and disburse public moneys, shall hereafter be furnished by some trust or surety company, authorized and existing under and by virtue of the laws of this territory, or if foreign companies, authorized to do business in this territory, and that no personal sureties or securities on bonds of above mentioned territorial or county officers now required by law or hereafter required by law, shall be accepted or approved by the judge or other officials whose duty it is or shall be hereafter to approve such sureties and bonds except where such bonds are for an amount of \$5,000, or less, in which case a personal security may be given: *Provided*, That if no such surety or trust companies exist in this territory and if for any reason whatever foreign companies authorized to do business in this territory shall refuse to execute any of such bonds, the same shall be executed by personal sureties.

Sec. 2. Hereafter the amount to be fixed on all bonds for municipal or county treasurers shall be based upon the collections made by such treasurers during any preceding year, and the amount of such bond shall be twenty-five per centum of the aggregate collections made during such preceding year. Such treasurers are hereby required to designate some depository for the deposit and safe keeping of public funds and such depository shall furnish a surety bond in an amount equal to twenty-five per centum of the aggregate collections made by such treasurer during any preceding year: *Provided*. That if there is more than one depository designated by such treasurer, such depository shall furnish a bond proportionate to the funds deposited. The said treasurers are hereby required to certify

the names of the depositories to the traveling auditor. Hereafter the amount of bond to be given by the territorial treasurer shall be fixed and based upon the collection for any preceding year and shall be in such amount as shall equal twenty-five per centum of the aggregate collections made during any such preceding year.

Sec. 3. That the maximum price to be charged by such surety or trust company, furnishing bond for such territorial or county officials shall not exceed the sum of one dollar and fifty cents per thousand dollars for any bond of three hundred thousand dollars or over and shall not exceed the sum of four dollars per one thousand dollars for any amount less than one thousand dollars, and such company charging a rate in excess of this amount shall be guilty of a misdemeanor and upon conviction, shall be fined in a sum of not less than five hundred dollars, and such fine together with the costs of proceedings may be deducted and withheld from any security on deposit with the territorial auditor or treasurer, and the proceeds thereof credited to the common school fund.

Sec. 4. This act shall be in full force and effect from and after the 31st day of December, 1905.

CHAPTER 107.

AN ACT TO PROTECT THE INHABITANTS OF THIS TERRITORY FROM FRAUDS PERPETRATED BY ITINERANT VENDORS, *A. H. B. No. 149; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Itinerant vendors.
- Sec. 2. Money deposit and license required of itinerant vendors.
- Sec. 3. Probate clerk to issue license.
- Sec. 4. Person injured or defrauded by itinerant vendor, may institute proceedings.
- Sec. 5. Return of deposit.
- Sec. 6. Failure to make deposit and secure license, a misdemeanor. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The words "itinerant vendors" as used in this act shall include all persons engaged in a temporary or transient business and who for the purpose of carrying on such business hire, lease or occupy any room, building or structure for the storage, exhibition or sale, or as a place from which to deliver the goods, wares and merchandise, or any part thereof dealt in by them; also all persons who go from place to place or house to house, soliciting or taking orders for goods, wares and mer-

chandise for future delivery; but shall not include commercial travelers or selling agents selling goods to dealers and shall not include or apply to the sale of books, papers, school supplies, fuel or household machinery.

Sec. 2. Every person desiring to carry on the business of an itinerant vendor as above defined shall before engaging in such business deposit with the treasurer of the county in which such business shall be carried on, the sum of \$1,000 in cash, also apply to the assessor for a license as such itinerant vendor, for which he shall pay the sum of one hundred (\$100.00) dollars.

Sec. 3. Upon the production of a certificate from the treasurer showing the deposit of such amount, and upon the payment of such amount, and upon the payment of such license fee, it shall be the duty of the probate clerk to issue a license to such person as an itinerant vendor, in the same manner as other licenses are now issued. The making of such deposit and receipt of such license shall authorize such person to carry on such business for the period of one year thereafter, and no longer.

Sec. 4. Any person injured, damaged or defrauded by any such itinerant vendor in any manner, or to whom such itinerant vendor shall deliver any goods, wares or merchandise inferior to the samples of the same as to him exhibited, or in any manner deceived or damaged by any false representations or statements of such itinerant vendor, may institute proceedings against the person so selling or delivering the same, and recover from him damages in double the purchase price of such goods, wares or merchandise. Such actions shall be prosecuted as an action of debt in any competent court, and any judgment rendered therein shall be satisfied out of the said money so deposited with the county treasurer, and a certified copy of such judgment shall be sufficient authority to such treasurer to pay over the same.

Sec. 5. At the termination of the period of eighteen months after the deposit of such moneys, the said county treasurer shall pay over to such licensee the said sum of one thousand dollars, less such amounts as may have been paid out by him for judgment as aforesaid. But no part of such sum shall be so returned by such treasurer during the pendency of any suit against such itinerant vendor.

Sec. 6. Any person who shall engage in or carry on the business of an itinerant vendor as herein defined without first making such deposit and taking out such license, shall be guilty of a misdemeanor and upon conviction before any justice of the peace or the district court, shall be fined in a sum not ex-

ceeding two hundred dollars, or imprisonment not to exceed six months, in the discretion of the court trying the cause.

Sec. 7. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 108.

AN ACT TO AMEND SECTION 6 OF CHAPTER 6 OF THE SESSION LAWS OF NEW MEXICO OF 1901. *H. B. No. 154; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Section 6, Chapter, 6, Laws of 1901, regarding the appointment of cadets to the Military Institute, amended. Proviso—Age limit of appointees.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 6 of Chapter 6 of the Session Laws of New Mexico of 1901, be and the same is hereby amended by striking out the word twenty on the twelfth line of said section between the words than and years and inserting in lieu thereof the word twenty-one so that the proviso of said section may read as follows: "*Provided, However, Said cadet so appointed must not be less than fourteen nor more than twenty-one years of age at the time of entering the institute, etc.*"

Sec. 2. That this act shall be in force and effect from and after its passage and all acts and parts of acts in conflict with this are hereby repealed.

CHAPTER 109.

AN ACT ENTITLED AN ACT TO AMEND SECTION 1, CHAPTER 72 OF THE SESSION LAWS OF 1903. *H. B. No. 63; Approved March 16, 1905.*

CONTENTS.

- Sec. 1. Section 1, Chapter 72, Laws of 1903, regarding the powers and duties of school directors in levying taxes, amended. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1 of Chapter 72 of the Session Laws of 1903 be amended so as to read as follows, to-wit:

“Section 1. That Section 1534, Compiled Laws of 1897, is hereby amended by adding thereto the following proviso:

Provided, That any school district, upon a majority vote of the legal taxpayers, thereof, at a regularly called election for the purpose, may have power to levy for school purposes not to exceed ten mills including the five (5) mill levy hereinbefore authorized for such purposes.”

Sec. 2. All laws or parts of laws in conflict herewith are hereby repealed, and this law shall take effect thirty days after its passage and approval by the governor.

CHAPTER 110.

AN ACT ENTITLED AN ACT TO AMEND SECTION 1870, OF CHAPTER 1, OF THE COMPILED LAWS OF THE TERRITORY OF NEW MEXICO, RELATING TO THE BUREAU OF IMMIGRATION. *H. B. No. 130; Approved March 16, 1905*

CONTENTS.

Sec. 1. Members of bureau of immigration. Vacancies.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Said bureau shall consist of six members, one from each judicial district of the Territory of New Mexico, he shall be appointed by the governor and confirmed by the territorial council, shall hold office for two years and until their successors are appointed and qualified. In case of any vacancy occurring among such commissioners from death, resignation or otherwise, it shall be filled by appointment by the governor, for the unexpired term. The members shall serve without compensation, though they may be reimbursed for actual expenses incurred in attending meetings of the board and for other incidental expenses while in the actual discharge of their duties.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER III.

AN ACT TO PROVIDE FOR THE LEASING, SALE, MANAGEMENT AND CONTROL OF ALL LANDS NOW OWNED OR HEREAFTER ACQUIRED BY THE TERRITORY OF NEW MEXICO; TO CREATE A TERRITORIAL PUBLIC LAND OFFICE, AND A COMMISSIONER THEREOF AND TO PRESCRIBE THE DUTIES OF SUCH OFFICER; TO PROVIDE FOR THE CARE, CUSTODY, DISPOSITION AND INVESTMENT OF MONEYS DERIVED FROM THE LEASING AND SALE OF ALL TERRITORIAL LANDS AND FOR OTHER PURPOSES. *A. C. B. No. 109; Approved March 16, 1905,*

CONTENTS.

- Sec. 1. Creation of land office.
- Sec. 2. Commissioner of public lands.
- Sec. 3. Oath and bond of commissioner of public lands.
- Sec. 4. Salary and clerk hire.
- Sec. 5. Commissioner to authenticate official papers.
- Sec. 6. Duties of the commissioner.
- Sec. 7. Office expenses.
- Sec. 8. Commissioner to recommend selections.
- Sec. 9. Commissioner to ascertain all salt lands.
- Sec. 10. Commissioner not to recommend location of reservoir sites.
- Sec. 11. Commissioner to keep record of business transacted.
- Sec. 12. Commissioner to keep separate accounts for each institution or purpose.
- Sec. 13. Lands not to be sold. Provisos.
- Sec. 14. Rental payable annually.
- Sec. 15. Lessees not to use timber or other materials.
- Sec. 16. Commissioner may sell matured and fallen timber. Proviso.
- Sec. 17. Lessee may use timber and stone for building. Proviso.
- Sec. 18. Penalty for wrongful use of material.
- Sec. 19. Lands to be appraised.
- Sec. 20. Appraisements how made.
- Sec. 21. Qualified lessee.
- Sec. 22. Assignments of leases and permits.
- Sec. 23. Renewal of leases and permits.
- Sec. 24. Contents of application.
- Sec. 25. Commissioner to notify applicant of rental value.
- Sec. 26. Rent to be first lien on improvements.
- Sec. 27. Improvements to be purchased by new lessee.
- Sec. 28. Lessee may remove improvements.
- Sec. 29. Persons occupying territorial lands to have preference rights. Proviso.
- Sec. 30. Pasturage permits.
- Sec. 31. Applications, how made.
- Sec. 32. Applications for location of lands.
- Sec. 33. Credits for moneys advanced to pay expenses of locations.
- Sec. 34. Commissioner shall adopt and publish rules.
- Sec. 35. Person aggrieved may appeal.
- Sec. 36. All funds to be used for benefit of institutions to which granted.
- Sec. 37. Disbursement of money for common schools.

- Sec. 38. Payment of money for other institutions.
- Sec. 39. Board of control. Officers. Meetings. Compensation. Expenses.
- Sec. 40. Territorial treasurer to deposit funds in bank paying highest rate of interest.
- Sec. 41. Board of control may have investigated locations for artesian wells.
- Sec. 42. Board of control may construct irrigation work.
- Sec. 43. Board of control may contract with persons to donate lands under reservoirs.
- Sec. 44. Board of control may cause investigations to be made to improve Rio Grande.
- Sec. 45. Shall have power to hear and determine appeals.
- Sec. 46. Compensation of United States land commission.
- Sec. 47. Commissioner to keep transcript of all selections.
- Sec. 48. Townsites on territorial lands.
- Sec. 49. Trespasser.
- Sec. 50. United States land office fees.
- Sec. 51. Unfinished business of commission of irrigation to be turned over to board of control.
- Sec. 52. Sale of lands for benefit of New Mexico College of Agriculture and Mechanic Arts, and the Institution for the Blind.
- Sec. 53. Certain acts repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Land Office.—There is hereby created in and for the Territory of New Mexico a territorial land office, to be located at the capitol, which shall have jurisdiction, management and control of all lands now owned by or placed at the disposal of this territory, or hereafter acquired or controlled by the territory either by act of congress approved June 21st, 1898, or by other laws hereafter enacted.

Sec. 2. Commissioner of Public Lands.—The executive officer of the territorial land office shall be a commissioner, the name and style of whose office shall be "Commissioner of Public Lands," who shall be appointed by the governor, by and with the consent of the council, and shall hold his office for two years and until his successor is appointed and qualified.

Sec. 3. Oath and Bond.—Before entering upon the duties of his office, the commissioner of public lands shall qualify by executing a bond to the Territory of New Mexico in the penal sum of fifty thousand dollars, conditioned upon the faithful performance of all duties required by law, and that he will safely keep all moneys, books, papers, and property belonging to his office during his incumbency thereof and pay over and dispose of the same as provided by law; such bond shall be guaranteed by some responsible surety company authorized to do business in this territory, the expense thereof to be paid by the territory out of the moneys arising from the public lands as other expenses connected with his office are hereinafter provided to be paid; he shall also take and subscribe an oath similar to that taken and subscribed by other territorial officers.

which bond, and oath shall be filed in the office of the secretary of the territory.

Sec. 4. Salary and Clerk Hire.—The commissioner of public lands shall be paid a salary of twenty-five hundred dollars per annum, payable monthly, and he may employ such clerks and other assistants in his office as he may need and may require of all assistants in his office a bond and oath of office.

Sec. 5. To Authenticate Official Papers.—Said commissioner shall be provided with an official seal and shall authenticate therewith all official papers kept on file in the territorial land office and shall execute therewith all leases, pasturage permits, rights of way, grants, contracts and other papers pertaining to the territorial lands under his control; and certified copies of all papers on file in the office of such commissioner, when bearing his official seal shall be admitted as evidence in any court in this territory; and said commissioner is hereby empowered to administer oaths, take acknowledgments and attest all papers in matters pertaining to his office, and to execute under his hand and seal all leases, pasturage permits and other contracts herein provided for, and leases, pasturage permits and deeds and other contracts heretofore or hereafter so executed shall be entitled to record without acknowledgment, and the record thereof in the county in which the land affected thereby is situate, shall constitute, constructive notice, to all persons of the contents thereof.

Sec. 6. Duties of the Commissioner.—The commissioner of public lands shall keep his office at the capitol and perform such duties and functions as may be required by law; he shall issue and sign on behalf of the territory, all leases, pasturage permits, deeds, contracts and other papers pertaining to the leasing, management and control of territorial lands; he shall take possession and have charge of all records, books, papers and property of every kind whatsoever now in the hands or control of the board of public lands, designated by act of the legislative assembly approved March 16, 1899, and shall collect any moneys due the territory on outstanding notes and other evidences of indebtedness for the purchase, leasing or using in any manner of territorial lands and otherwise enforce the same as though such contracts and evidences of indebtedness had been executed under this act or the statutes of New Mexico and all notes or other evidences of indebtedness had been executed under this act or the statutes of New Mexico and all notes or other evidences of indebtedness, leases and other contracts heretofore issued or made to or by the board of public lands are hereby ratified and confirmed and declared to be the property of the territory for the purpose of this act; he

shall receive all moneys derived from the leasing, handling or sale of territorial lands and disburse the same as provided by this act; he shall receive and pass upon all applications for leasing, purchasing or using the territorial lands or any easements or other rights connected therewith or appertaining thereto, and execute proper leases, contracts, notes and other papers therefor; he shall furnish lists of vacant lands to all applicants, and keep a full and complete record of all his official acts; he shall prepare and submit to the governor each year a report bearing date the last day of December, containing a statement of the business of his office and the amount turned over by him to the treasurer for the benefit of each fund or institution, also such recommendations as he may desire to make for the better management, handling or control of territorial lands which report shall be published and distributed free of charge.

Sec. 7. Office Expenses.—The commissioner of public lands is hereby allowed the sum of two thousand dollars annually for office expenses and the employment of such clerical assistance and agents as the business of his office may require and he shall prescribe the duties of all assistants in his office. The salaries and expenses to be paid upon vouchers and warrants drawn and paid as other territorial officials

Sec. 8. Commissioner to Recommend Selections.—It is hereby made the duty of the commissioner of public lands to ascertain the amount of lands due the territory from any source and to recommend to the United States land commission the selection and location of all indemnity and other lands, whenever and wherever the best interests of the territory will be subserved; and the commissioner shall be allowed his actual and necessary expenses when he is required to go to different parts of the territory in the performance of his official duties.

Sec. 9. To Ascertain All Salt Lands.—The commissioner of public lands shall cause an investigation to be made at once with a view to ascertaining all salt lands in the territory, gathering full data as to the extent of all such lands and the amount of salt produced therefrom and shall make contracts with other persons or corporation for the sale or handling of the salt output thereof, or shall lease said lands for a fair price to parties desiring the use of salt thereon; and may make any contracts for the best interest of the territory in handling such lands.

Sec. 10. Not to Recommend Location of Reservoir Sites.—The leasing, management, sale and control of all the lands granted to the territory by act of congress approved June 21,

1898, for the establishment of permanent water reservoirs for irrigation purposes and of land granted for the improvement of the Rio Grande and the increasing of the surface flow of the water in the bed of said river shall be under the control of the commissioner of public lands under the supervision of the board of control hereinafter created, as other territorial lands, but said commissioner shall not recommend selections of sites for reservoirs, or make contracts for grants of lands to persons constructing water reservoirs, or make contracts for the improvement of the Rio Grande, but may receive applications for such purposes and have the same investigated and reported upon by a competent engineer, which application and reports shall be by said commissioner filed with the board of control for its action thereon as hereinafter provided.

Sec. 11. To Keep Record of Business Transacted.—The commissioner of public lands shall keep by sections, townships and ranges separate tract books of all lands reserved for the use and benefit of the different institutions and purposes and the expiration of leases and number of cash payments receipts and registered numbers of all notes and payments thereof; he shall record and number consecutively all leases and pasturage permits, and shall record in series according to date of maturity and fund to which they belong all notes given for deferred payments under said leases; he shall keep a cash book in which he shall each day record all moneys received by him from whatever source, showing by whom paid and for what purpose; he shall keep by series a record of all notes cancelled on account of new notes taken in case of transfer of lease or pasturage permit, and he shall receive and accept or reject all applications for leases or pasturage permits and give notice of his action in the premises to all applicants.

Sec. 12. To Keep Separate Accounts for Each Institution or Purpose.—The commissioner of public lands shall keep separate accounts of all moneys received from lands reserved for common schools, a university, an agricultural college, a school of mines, normal schools, a military institute, reform school, an institution for the blind, and asylum for the deaf and dumb, permanent water reservoirs for irrigating purposes, improvement of the Rio Grande, an asylum for the insane, a miners' hospital for disabled miners, public buildings at the capital, territorial penitentiary, or for any other purpose; and said moneys derived from approved leases, pasturage permits and sales of territorial lands shall be paid to the territorial treasurer on the first day of each month to the credit of the several funds respectively entitled to receive the same.

Sec. 13. **Lands Not to be Sold. Exceptions.**—All lands not owned or hereafter acquired by this territory shall be subject to lease at an annual rental of not less than two cents per acre for dry grazing land, five cents per acre for grazing land with stock water sufficient to supply all stock that the land applied for will support, and ten cents per acre for lands with water supply sufficient for irrigating or for cultivated lands; and said lands shall be leased for a period not to exceed five years, and none of said land shall be sold except such as are under permanent water reservoirs, or are capable of being used for farming purposes, or irrigated from some permanent water supply: *Provided*, That the commissioner of public lands may grant the right of way across or upon any portion of the territorial lands upon such terms as he may deem for the best interests of the territory for any ditch, reservoir, railroad, public highway or telegraph line; and he may sell lands for the purpose of erecting thereon buildings for schools, colleges, churches, hospitals, benevolent institutions and cemeteries, and he may execute and sign on behalf of the territory a proper deed or instrument of writing for such right of way or sale: *Provided*, That this section shall not be construed to grant authority to convey any land except for the purposes herein set forth, and no land shall be sold for less than the appraised value thereof, nor for less than three dollars per acre and not more than forty acres shall be sold to any one institution of the character herein mentioned, and not more than one quarter section shall be sold to any one person for farming purposes.

Sec. 14. **Rental Payable Annually.**—All rentals for leased lands or for pasturage rights shall be paid annually in advance on the first day of October, and all notes executed for deferred payments shall mature on the first day of October of each year, and the date of expiration of all leases or pasturage permits shall be the first day of October of the year said lease or pasturage permit is to expire.

Sec. 15. **Lessees Not to Use Timber or Other Materials.**—Lessees of territorial lands shall not remove or use, or allow to be removed or used any timber, stone or mineral found on any of the lands leased unless such removal is provided for in the lease.

Sec. 16. **May Sell Matured and Fallen Timber.**—The commissioner of public lands is hereby authorized to sell the down, large growth and matured timber on any territorial lands at a price of not less than two dollars per acre, and not less in any event than the market value in the locality where the same is situate; but shall not sell any such timber or authorize the cut-

ting or use thereof, except upon application duly sworn to, describing by government sub-divisions the tract or tracts upon which the applicant desires to cut timber and the number of acres from which he desires to cut the same, with an estimate as nearly as may be of the amount of timber thereon and the character and quality thereof, which estimate of timber on said land shall be verified by affidavits of two disinterested persons familiar therewith: *Provided*, That the commissioner may if he desires make a personal investigation of the land before contracting for the sale of such timber. Before any permit to cut or remove any of said timber shall be given, the commissioner shall require the applicant to give bond to the Territory of New Mexico, to his satisfaction, in such sum as he may deem sufficient, to the effect that in case said permit is granted, the person applying therefor will not cut or remove any timber hereby prohibited to be cut or removed from the land described in his application; and not timber less than eight inches in diameter shall be cut and sold from said land, except such as is suitable for fuel and fences.

Sec. 17. Lessee May Use Timber and Stone for Building.—Lessees of territorial lands as herein provided may be permitted to use such dry and down timber as may be on said land for fuel, and such timber and stone as may be necessary to erect buildings and fences on the land: *Provided*, That the consent of the commissioner of public lands shall be first had and such permit shall be in writing and attached to the lease; and all improvements made from material obtained from said land shall be deemed a part of the land and shall revert to the territory at the expiration of the lease and shall not be removed from the premises.

Sec. 18. Penalty for Wrongful Use of Material.—Any person removing, cutting or using any timber, stone or other materials belonging to the Territory of New Mexico, except as herein provided, or in any way trespassing upon territorial lands, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment for a period of not less than six months nor more than one year and in addition thereto shall forfeit and pay to the territory an amount double the value of the material so used, cut or removed, and all moneys collected for violations hereof shall be paid to the commissioner of public lands and by him credited to the institution or purpose to which the land belongs; and any violation of this provision by persons holding

leases or pasturage permits for said land shall cause a forfeiture of such lease or permit and the same shall be cancelled.

Sec. 19. Lands to Be Appraised.—The commissioner of public lands shall cause an appraisal to be made of all lands upon which leases or pasturage permits are about to expire, and he may, if in his judgment the same is for the best interests of the territory require an appraisal of any lands belonging to the territory before issuing a lease or pasturage permit therefor.

Sec. 20. Appraisements How Made.—The commissioner shall direct the manner in which territorial lands shall be appraised, but all appraisements shall be made from personal knowledge and not upon information, and shall be sworn to by the appraiser and filed in the office of the commissioner, and shall be subject to review and revision by the commissioner.

Sec. 21. Qualified Lessee.—Any person over twenty-one years of age or the head of a family and not in any manner in default in fulfilling any contracts heretofore made for leasing lands belonging to the territory shall be a qualified lessee, and not more than one section of land shall be leased to any one person, corporation or association of persons.

Sec. 22. Assignment of Leases and Permits.—Any lessee or holder of a pasturage permit not in arrears in the payment of rental, may upon payment of all money to become due in one year, assign his rights in and to any lease or pasturage permit to any responsible person who is a qualified lessee; but such assignment shall not operate to discharge the lessee from the obligations of his lease, nor relieve him of any joint principal or surety from payment of any notes given for rental of the land or grazing privileges thereon until the person named in the assignment shall have executed other notes satisfactory to the commissioner or paid the rental thereon for the entire period of the lease; and no assignment of a lease or pasturage permit shall inure to the benefit of the assignee unless the same is filed in the office of the commissioner of public land within thirty days after the execution thereof, and the commissioner shall demand and receive the sum of two dollars for each assignment, which amount shall be paid at the time the assignment is filed in his office and shall be credited to the fund to which the land belongs.

Sec. 23. Renewal of Leases and Permits.—Any lessee desiring to renew his lease or pasturage permit for another term, must make his application in writing to the commissioner on or before the first day of August prior to the expiration of his

lease; and any lessee who has in good faith complied with all the requirements of his lease shall have the preference right to release the premises for another term at a value to be fixed by the commissioner upon the report of appraisement.

Sec. 24. Application to State What.—Application for renewal shall state clearly and precisely:

1. The number of acres in cultivation if any.
2. The manner in which the land was cultivated during the term of the lease.
3. The kind, character and value of all the improvements on the land, separately stating the value of the movable and permanent improvements.
4. What if any timber there is growing on said land.
5. What if any water there is on the land; and what if anything the lessee has accomplished in the way of developing water thereon.
6. Whether the lessee has used any timber, stone or other material on said land and for what purpose.

The application shall be verified by the oath or affirmation of the applicant; and in case the application to renew is not filed within the time herein provided, the lessee shall be deemed to have waived his preference right to the renewal of his lease and the commissioner may proceed to lease the same as provided by law.

Sec. 25. Commissioner to Notify Applicant of Rental Value.—Upon the filing of an application to renew a lease or pasturage permit the commissioner shall notify the lessee of the appraised rental value as fixed by the commissioner based upon the report of appraisement and unless the lessee shall transmit to the commissioner within thirty days thereafter the first year's rental for such land, he shall be deemed to have waived his preference right to lease said land, and the commissioner shall proceed to lease the land as provided by law.

Sec. 26. Rent to Be First Lien on Improvements.—All rents contracted or due shall be a first lien on any and all improvements and crops on the lands leased and such lien shall be prior and superior to any other lien or encumbrance whatsoever, whether taken with or without notice of the lien for rental due and unpaid or to become due, and when the rent for any lease or pasturage permit is due and unpaid the commissioner may forthwith attach all improvements on the land or so much as will be sufficient to pay said rental and hold the same until said lien can be foreclosed, and said lien shall be foreclosed in the manner provided by law for foreclosing liens for pasturage; and if any lessee holds over his term, or holds

after his lease has been declared forfeited as provided by law, or fails to furnish additional security for any deferred payment when so required to do by the commissioner; or fails to pay his rent for a period of sixty days after the same is due and payable or if the lessee shall fail to comply with the conditions of his lease, or violates any of the provisions thereof, the commissioner may declare said lease forfeited and re-take said premises and lease the same as provided by law.

Sec. 27. Improvements to Be Purchased By New Lessee.—If any lessee does not desire to renew his lease at the appraised price finally fixed he may sell his improvements to such other person as may secure a lease upon the land, and if such persons cannot agree upon the value of such improvements, and such lessee does not remove the same within the time herein limited, the commissioner shall appoint three disinterested persons, residents of the county wherein the land is situated, to appraise such improvements, and if the new lessee will not purchase the improvements at the price fixed by the appraisers, the former lessee shall be liable for the last fixed rental for the land and shall be deemed to remain in possession thereof until the rent shall have absorbed the improvements, and thereafter such improvements shall be the property of the territory.

Sec. 28. Lessees May Remove Improvements.—Any lessee or holder of a pasturage permit, not in arrears on the rent may at the termination of his lease or permit remove any or all of his improvements of a movable character, including buildings and fences, and he shall have the right to enter and remove any crops thereon; but such improvements and crops must be removed within thirty days next after the termination of his lease and within ninety days next after the termination of a pasturage permit; and if not removed within the time fixed, all such improvements and crops shall become the property of the Territory of New Mexico, at the option of the commissioner of public lands, and may be by him appraised and sold, and the proceeds thereof, after all expenses are paid shall be turned into the fund to which the land belongs to the credit of the lessee, who shall have one year in which to withdraw the same, and if not withdrawn within one year the same shall become a part of said fund.

Sec. 29. Persons Occupying Territorial Lands to Have Preference Rights.—Whenever any school section, or any other portion of the public domain which may be selected or segregated for the purposes of this act is occupied by any per-

son or persons, such person or persons having made improvements thereon, such person or persons shall have the preference right to lease such section or sections or the part thereof so occupied and improved, and when the same may be sold or offered for sale, such person or persons shall have the preference right of purchase thereof: *Provided*, A claim for such right shall be filed with the commissioner of public lands within ninety days from the date of the approval by the secretary of the interior of the selection of said land: *And, Provided, Further*, That whenever any school section or any part thereof or any other portion of the public domain which may be selected and segregated for the purposes of this act and which may be occupied or used as a cemetery or burial ground by **any person or persons or community**, such person or persons or community shall have the preference right, to lease such school section or purchase such other land, or so much thereof as is occupied for such purpose, at a price to be fixed by the commissioner; and any land so used shall not be leased under the provisions of this act except for cemetery purposes and only to the persons or community occupying the same for such purpose.

Sec. 30. Pasturage Permits.—The commissioner of public lands may agree with any person or persons with reference to the amount of damages caused any territorial land by grazing thereon, and upon payment thereof such person or persons shall thereby be released from any further claim for damages; and the commissioner shall also have authority to grant the right of pasturage upon such amount of unleased land as he may determine for the best interest of the territory, for a period not to exceed five years and not less than two cents per acre.

Sec. 31. Applications How Made.—All applications for leases, pasturage permits and locations of land not already located by the territory, and for lands for the construction of reservoirs and for reservoir sites shall be made to the commissioner of public lands in writing and shall contain such information as the commissioner may require and shall be sworn to by the applicants.

Sec. 32. Applications for Location of Land.—Applications for locations of land by the territory for any purpose shall state for what purpose the location is desired, and if for pasturage or other privilege shall state the amount per acre per annum the applicant is willing to pay for such privilege and each application shall be accompanied by a township plat and a sum sufficient to cover one year's rental of said land, to be deposited with the commissioner; and if said lands are located, the commissioner, shall as soon as such location is approved by the secretary of the interior, notify the applicant, and such appli-

can't shall thereafter have thirty days preference right to lease such land or to have the right of pasturage thereon, and unless he shall within said thirty days execute and file with the commissioner a lease or pasturage contract for said lands and execute notes for deferred payments as required by law and the rules of the territorial land office, he shall be deemed to have waived his preference right and the money deposited shall be forfeited and credited to the fund to which the land belongs and the commissioner shall proceed to lease the land or grant the right of pasturage thereon.

Sec. 33. Credits for Moneys Advanced to Pay Expenses of Locations.—All persons who have heretofore or may hereafter advance moneys to pay the expenses of locating lands for the territory, located under the direction of the United States land commissioner, shall be credited on their leases or pasturage permits with the money so advanced, if such persons secure leases or permits thereon.

Sec. 34. Commissioner Shall Adopt and Publish Rules.—Immediately after this act becomes effective the commissioner shall supply his office with all necessary blanks for applications to lease, pasturage permits, appraisements, leases and other blanks and shall furnish the same to the public as needed; and he shall adopt and publish in pamphlet form rules and regulations governing the management of his office not inconsistent with this act or the acts of congress, and governing the manner of applying for lands, and of appraising lands and all other matters pertaining to the handling of the territorial lands.

Sec. 35. Person Aggrieved May Appeal.—Any person feeling himself aggrieved by any decision or action of the commissioner of public lands shall have the right to appeal to the board of control by filing with said board within thirty days after such decision or action a statement of his case and of the action of the commissioner thereon, and the board shall act upon the same at its first meeting after the filing thereof and notify the applicant of their action in the premises.

Sec. 36. All Funds to Be Used for Benefit of the Institutions to Which Granted.—All funds belonging to the territory arising from lands granted for any of the purposes for which donations were made by act of congress approved June 21, 1898, or any similar act of congress which may hereafter be enacted for the benefit of the various institutions of the Territory of New Mexico are hereby pledged for the purposes for which they were created, and shall not be transferred to any

other fund or for any other purpose, but they shall be expended or invested for the respective purposes for which the same were created.

Sec. 37. Money for Common Schools How Disbursed.—All money derived from the leasing of sections 16 and 36, or lands selected as indemnity lands in lieu thereof shall be paid by the commissioner of public lands to the treasurer of the territory, who shall credit the same to the common school fund; likewise all income from money paid to the territory as provided by section 4 of the act of congress approved June 21, 1898; and the treasurer shall on or before the first Monday of March, June, September and December of each year make a complete statement of all moneys applicable to the use and support of the common schools of the territory and shall deliver the same duly certified to the superintendent of public instruction; and within twenty days thereafter the superintendent shall make an apportionment of said money to the various counties according to the pro rata enumeration of school children in each county according to the latest returns from the county superintendent of schools, and shall certify the apportionment of each county to the territorial treasurer and territorial auditor and to the treasurer and superintendent of each county and the territorial auditor shall draw his warrant on the treasurer in favor of the treasurer of each county for the amount apportioned to each county, and said money shall be apportioned and distributed in each county according to the law governing the apportionment and distribution of other school funds.

Sec. 38. Money for Other Institutions How Paid.—All moneys derived from leasing or grants of pasturage permits of lands granted to the territory for the benefit of other institutions mentioned in the act of congress approved June 21, 1898, shall be paid by the commissioner of public lands to the treasurer and by him credited to the different institutions entitled thereto, and shall be by such treasurer paid to such institutions at the times and in the manner that other public moneys are paid to those institutions.

Sec. 39. The Commission of Irrigation as Now, or Hereafter, Constituted Shall Be Known as a Board of Control.—Said board shall elect from among its members a president, and the commissioner of public lands shall be ex-officio secretary of said board. Said board shall meet quarterly, on the first Monday in January, April, July and October of each year, in the office of the commissioner of public lands, at the capitol, and the said board shall have such powers and perform such duties as are provided by this act. The members of said board

shall be entitled to and receive eight dollars per day and their necessary expenses for each day actually necessary to perform the duties herein imposed, as compensation for the services herein required to be performed by them, and no further or other compensation while discharging such duties. All expenses incurred by said board shall be certified by the secretary thereof and shall be approved by the president of said board and paid out of any moneys received from the leasing and sale of lands and which are credited to the funds for the establishment of water reservoirs for irrigation purposes and the improvement of the Rio Grande in New Mexico.

Sec. 40. The territorial treasurer shall immediately ascertain which bank in New Mexico will pay the highest rate of interest on the deposit of funds derived from the source mentioned in section 4 of an act of congress, approved June 21, 1898, entitled An Act to make certain grants of lands to the Territory of New Mexico, and for other purposes, and shall immediately deposit the same therein upon the giving of a bond as now required by law for the deposit of other territorial funds, and shall as soon as practicable thereafter invest all such funds and those hereafter derived from such source in United States or territorial securities or bonds issued by counties or municipalities in the territory, and the interest derived from such investments shall be expended for the purpose specified in said section 4 of said act of congress.

Sec. 41. The board of control may cause investigations to be made by competent engineers in localities where there may be a probability of developing artesian water, and may use a portion of the funds derived from lands granted for the establishment of water reservoirs in sinking one or more experimental artesian wells, and may agree with persons or communities to furnish one-half the expense of sinking test wells; but all wells bored at territorial expense shall be on territorial land, or under contract to have the money refunded by the owner of the land in event the flow is developed.

Sec. 42. May Construct Irrigation Works.—The board of control may use the funds derived from leasing or granting of pasturage permits upon lands granted to the territory for the establishment of permanent water reservoirs in the construction of storage reservoirs, feeding and distributing canals and all necessary equipment to operate the same and the employment of competent engineers to investigate reservoir sites and to superintend the construction of such irrigation works, and may recommend to the United States land commission the

selection and location of all lands to be watered by such irrigation works, and when so selected the same shall be under the management of the commissioner of public lands, and when capable of being irrigated may be sold in tracts of not more than one hundred and sixty acres to any one person or association, except as provided by section 43 of this act, at a minimum cost of \$3 per acre plus the pro rata cost of said plant to be assessed against each acre of land watered thereby.

Sec. 43. May Contract With Persons to Donate Lands Under Reservoirs.—The board of control may contract with persons of financial responsibility constructing irrigation works to locate lands under said reservoirs and to allow to each person or association of persons a share of the moneys derived from the sales of said land, not to exceed fifty per cent.; or may contract to locate lands, under proposed reservoir sites and to donate to the person or association or persons constructing the same not to exceed five thousand acres of such lands upon the completion at their or its expense of irrigation system or works sufficient to irrigate and reclaim the amount of land so donated.

Sec. 44. May Cause Investigation to be Made to Improve Rio Grande.—The board of control shall employ competent engineers to make investigations of the surface flow of the water in the bed of said river, and shall compensate such engineers out of the moneys derived from the lease or sale of lands granted to the territory for the above purpose, and may expend the money derived from the lands granted to the territory for that purpose in the improvement of said river and in increasing the surface flow in the bed thereof.

Sec. 45. Shall Have Power to Hear and Determine Appeals.—The board of control shall also have power to hear and determine all appeals from the action of the commissioner of public lands in all matters coming before said commissioner for his action.

Sec. 46. Compensation of United States Land Commission.—Each member of the United States land commission created by act of congress approved June 21, 1898, to make selections of indemnity and other lands granted to the territory by said act shall receive as compensation for his services the sum of five hundred dollars per annum, payable monthly; and the said board is hereby authorized to employ such engineers, clerks and other assistants as it may need, and to purchase such office stationery, supplies and fixtures as may be necessary, and shall be allowed to expend therefor a sum not to exceed one thousand dollars per annum and all such expenses shall be paid out of the funds derived from the leasing and sale of public lands

upon vouchers and warrants drawn in the manner now provided for the payment of other territorial accounts and the commissioner of public lands is hereby made ex-officio secretary of said United States land commission.

Sec. 47. Commissioner to Keep Transcript of All Selections.—The commissioner of public lands shall keep in his office a transcript of all selections made by the United States land commission, and shall enter at once upon the record book in his office the approval of the secretary of the interior when made, of all locations of land for institutional or other purposes.

Sec. 48. Townsite on Territorial Lands.—Whenever any of the school sections or other land of this territory shall become valuable or desirable for manufacturing or for townsite purposes, the commissioner of public lands may in his discretion cause or permit the same to be sub-divided into suitable tracts or surveyed into lots and blocks with the usual reservation for streets, alleys, and public reservations and shall cause appraisements to be made of such sub-divisions and of said lots and blocks in any suitable manner and shall prescribe rules and regulations not inconsistent with the provisions of this act for the use and occupancy thereof and may, in his discretion, lease said lots, blocks and sub-divisions for any determinate period not exceeding five years: *Provided*, That in leasing of said lots, blocks and sub-divisions all of the provisions of this act regarding improvements, preferred right to release and transfer of leases shall apply to the leasing of lots, blocks and other sub-divisions so far as the same shall be applicable.

Sec. 49. Trespasser.—All persons are forbidden to enter upon and occupy, or in any manner use for agricultural, grazing or other purposes, any lands that are now owned or hereafter acquired by the Territory of New Mexico, without first obtaining permission from the commissioner of public lands and all persons will take notice that any such trespass will be promptly prosecuted and the trespasser held liable in damages and that unless prompt settlement is made, suit will be instituted by the commissioner of public lands.

Sec. 50. United States Land Office Fees.—The auditor of this territory shall make a levy each year on all taxable property in this territory sufficient to raise the amount of thirty-six hundred dollars each year, for the purpose of providing a fund to pay the United States land office fees, for lands selected by the United States land commission, created by act of congress approved June 21, 1898, which fund shall be expended from time to time as required under the direction of the

commissioner of public lands upon vouchers and warrants drawn in the manner hereinbefore provided.

Sec. 51. All business pending before the commission of irrigation which shall not have been fully disposed of when this act goes into effect, shall be turned over to the board of control and disposed of by said board or the commissioner of public lands under the provision of this act, and all contracts shall be carried out with the same effect as if this act had not been passed.

Sec. 52. The commissioner of public lands is hereby authorized and directed to contract for the sale of and to sell for cash, after due publication of notice thereof, ten thousand acres of the lands heretofore selected for the New Mexico College of Agriculture and Mechanic Arts and five thousand acres of the lands heretofore selected for the institution for the blind, located at Alamogordo, at not less than the sum of ten dollars per acre, and the moneys derived from the sale of such lands shall be disbursed by the respective boards of regents and managers of such institutions for the purpose of the construction of permanent improvements.

Sec. 53. Certain Acts Repealed.—All of Chapter LXXIV. of the acts of the thirty-third legislative assembly of New Mexico, approved March 16, 1899, except section 2 of said act as amended by Section 1 of Chapter LXIX. of the acts of the thirty-fourth legislative assembly of said territory, and all of said chapter LXIX. of said thirty-fourth legislative assembly approved March 20, 1901, except section 1 of said last mentioned act, also all of chapter LXXVIII. of the acts of the thirty-fifth legislative assembly of said territory, approved March 17, 1903, and all other acts and parts of acts in conflict herewith are hereby repealed. Said Section 2 of Chapter LXXIV. of the acts of said thirty-third legislative assembly and Section 1 of Chapter LXIX. of the acts of said thirty-fourth legislative assembly, above excepted from this repeal, are expressly continued in force, and the commissioner of public lands now in office, shall continue in office until the expiration of his present term, unless a vacancy arises in a manner otherwise provided by law.

Sec. 54. This act shall take effect and be in force from and after the expiration of sixty days from the date of its passage and approval.

CHAPTER 112.

**AN ACT PROVIDING FUNDS AND MAKING APPROPRIATIONS
FOR THE FIFTY-SEVENTH AND FIFTY-EIGHTH FISCAL
YEARS AND FOR OTHER PURPOSES. *A. C. B. No. 120;*
*Approved March 16, 1905.***

CONTENTS.

- Sec. 1. Payment of interest on bonded indebtedness. Proviso.
- Sec. 2. Support and maintenance of territorial institutions. Proviso.
- Sec. 3. Charitable institutions.
- Sec. 4. Penitentiary current expense fund.
- Sec. 5. Pay of territorial officials. Supreme court fund.
- Sec. 6. Mileage and expenses of sheriffs. Proviso.
- Sec. 7. Board of election canvassers to send election returns to capital. Proviso.
- Sec. 8. Militia fund. Proviso.
- Sec. 9. Appropriation for territorial library.
- Sec. 10. Section 4, Chapter 97, Laws of 1903, regarding the use of penitentiary material and labor, amended. Account of auditor to draw warrants in favor of superintendent of penitentiary.
- Sec. 11. Miscellaneous fund. Proviso.
- Sec. 12. Insurance. Proviso.
- Sec. 13. Pay of clerk of district court.
- Sec. 14. Appropriation for protection of residents of Mimbres Valley from floods. Land commission. Proviso.
- Sec. 15. Deficiency.
- Sec. 16. Surplus at end of fiscal year to be transferred to credit of following fiscal year.
- Sec. 17. Appropriations for fifty-seventh fiscal year, extended to fifty-eighth. Exceptions.
- Sec. 18. Proportional distribution of territorial taxes collected, among various appropriations.
- Sec. 19. Territorial auditor to levy tax.
- Sec. 20. Provision in case any legislative assembly fails to pass appropriation bill.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. For the fifty-seventh fiscal year the following appropriations hereinafter specified or so much thereof as may be necessary are hereby made and directed to be paid for the purposes hereinafter expressed to-wit:

For the payment of interest on the bonded indebtedness fifty-two thousand two hundred (\$52,200.00) dollars: *Provided*, That whenever the moneys in the interest fund are insufficient to meet the payment of outstanding interest coupons, as they mature, it shall be the duty of the territorial treasurer to borrow temporarily a sufficient sum to make such payments, and for such purpose the said treasurer is hereby authorized and empowered to make and negotiate the necessary loan on the best terms obtainable, at a rate of interest not exceeding

six per cent. per annum: *Provided, However,* That any surplus of any other fund on hand not otherwise appropriated may be first used to pay such deficit before borrowing. The auditor of public accounts shall countersign any and all papers necessary for the negotiations of such loan and charge the proceeds to the treasurer, and the treasurer shall redeem such paper out of the interest fund whenever there shall be money in such funds available.

Sec. 2. For the support and maintenance of territorial institutions there is hereby appropriated as follows:

New Mexico College of Agriculture and Mechanic

Arts	\$12,000.00
University of New Mexico	18,200.00
New Mexico School of Mines	14,000.00
New Mexico Normal School, Silver City	14,000.00
New Mexico Normal University at Las Vegas....	14,000.00
New Mexico Military Institute at Roswell.....	14,000.00
New Mexico Insane Asylum at Las Vegas, or so	

much thereof as may be necessary 60,000.00

Provided, That after January 1, 1907, the board of directors of said asylum shall appoint as medical superintendent of said asylum a physician who shall reside at said asylum: *Provided,* That there is hereby further appropriated all moneys heretofore or hereafter collected and turned into the territorial treasury derived from the proceeds of a levy made and collected under the provisions of Chapter 69 of the Session Laws of 1901, being an act providing for geological surveys in the Territory of New Mexico, and the territorial treasurer is hereby directed to transfer all such funds now in his hand: or that may hereafter be paid into the territorial treasury on account of the said geological survey fund to said New Mexico insane asylum at Las Vegas.

Miners' Hospital at Raton	\$ 9,500.00
Institute for the Blind at Alamogordo	10,000.00
Reform School in Rio Arriba County	5,000.00
Deaf and Dumb Asylum at Santa Fe	2,800.00
Children's Home at Belen	4 500.00

Provided, That the last five named institutions are hereby authorized if necessary to use the proceeds of the funds hereby appropriated for maintenance towards the completion of the buildings of said institutions and for the purchase of permanent fixtures and equipment required therefor. Such expenditure if made, to be done under the direction of the respective managing boards of such institutions.

Sec. 3. For the various charitable institutions and hospitals of New Mexico, there is hereby appropriated as follows:

St. Vincent's Hospital at Santa Fe	\$3,600.00
Grant County Hospital at Silver City	1,800.00
Sisters of Mercy Hospital, Silver City	1,800.00
Ladies' Hospital at Deming	1,800.00
Eddy County Hospital at Carlsbad	1,800.00
Orphan's School at Santa Fe	5,400.00
Relief Society at Las Vegas	2,400.00
Sisters' Hospital at Albuquerque	2,400.00
Gallup Hospital at Gallup	1,800.00
Sisters of Loretto at Taos	1,800.00
Women's Board of Trade at Santa Fe, to aid in the construction of a free public library building..	1,000.00

Sec. 4. For the penitentiary current expense fund, for the payment of officers and employes there is hereby appropriated as follows:

One superintendent	\$ 2,000.00
One assistant superintendent	1,200.00
One physician	600.00
One chaplain	200.00
One yard master	600.00
One cell house keeper, day	480.00
One cell house keeper, night	480.00
One assistant cell house keeper	420.00
One assistant cell house keeper	420.00
One clerk and storehouse keeper	600.00
One captain day guards	480.00
One captain night guards	480.00
Ten day guards	3,600.00
Four night guards	1,440.00
One matron	600.00
For penitentiary maintenance or so much thereof as may be necessary	35,000.00

There is hereby appropriated the sum of eight thousand (\$8,000.00) dollars, out of any funds in the territorial treasury for the re-imbursement of such penitentiary for brick and other material furnished public institutions, and the territorial treasurer is hereby directed to transfer the same to the credit of the penitentiary convict earnings fund.

Sec. 5. For the territorial officers for the fifty-seventh fiscal year there is hereby appropriated the following:

One superintendent of public instruction salary and traveling expenses	\$2,400.00
One assistant superintendent of public instruction, to be named by the governor	1,800.00
For salary of district attorneys	5,500.00
For salary of one solicitor general, the title of which office is hereby changed to attorney general..	3,000.00
For salary stenographer and clerk for attorney general	1,200.00
For salary territorial auditor	3,000.00
For clerk hire for territorial auditor	1,000.00
For salary territorial treasurer	2,400.00
For clerk hire territorial treasurer	1,200.00
For salary territorial librarian	720.00
For the last eleven named appropriations, the same amount herein named in proportion is hereby made for the fifty-sixth fiscal year from and after the passage of this act.	
For salary secretary bureau of immigration and expenses	\$ 1,500.00
For salary and expenses penitentiary board	1,500.00
For salary and expenses of the judges of the district courts	9,000.00
For salaries of the clerks of the district courts....	19,200.00
For salary clerk of supreme court	1,200.00
For salary, mileage and expenses of the territorial board of equalization	1,000.00
For salary territorial game and fish warden	1,800.00
For salary adjutant general	1,600.00
For salary traveling auditor and bank examiner..	2,400.00
For clerk hire for traveling auditor	1,200.00
For salary private secretary to the governor.....	1,500.00
For salary governor's messenger and doorkeeper..	180.00

SUPREME COURT FUND.

The following amount, or so much thereof as may be necessary for printing briefs and the expenses in cases brought and defended by the territorial and actual expenses incurred by the attorney general when legally required to attend and defend cases brought by the territory in any of the first judicial district courts situate outside of the district, and for stationery for his office, \$300.00.

For printing dockets and calendars of the supreme court, and for stationery, \$200.00.

The district attorney of Santa Fe county shall act as assist-

ant attorney general of the territory, whenever required so to do, and there is hereby appropriated as salary for such acting assistant attorney general, \$600.00.

And a like appropriation for the fifty-sixth fiscal year from the passage of this act.

Sec. 6. Hereafter the sheriffs of the various counties of this territory shall only be entitled to draw mileage for one person in charge of prisoners, transported to the penitentiary, and they shall only be entitled to charge the actual expenses for the prisoners so conveyed, and shall be entitled to charge per diem at the rate of five dollars (\$5.00) per day for each guard and the actual cost of transportation: *Provided*, That sheriffs shall not be entitled to more than one guard for two prisoners and one guard for every three additional prisoners, and such sheriffs are hereby required to convey at one time all prisoners sentenced during any one term of court.

Sec. 7. Hereafter it shall be the duty of the different boards of election canvassers to cause the election returns to be sent to the seat of government to be forwarded by some express company and upon delivery of said returns to said express company they shall take a receipt therefor, and immediately forward said receipt by registered mail to the secretary of the territory: *Provided, Further*, That when the county seat of any county from where the returns are to be forwarded, have no express company, then and in no other case, said board of election canvassers, shall designate one of their number a special messenger to convey said returns to the nearest express office to be forwarded as above provided and take a receipt therefor, and the said messenger shall be allowed for his services twelve and one-half (12 1-2) cents per mile for conveying said returns for each and every mile actually and necessarily traveled from the county seat to such express office.

MILITIA FUND.

Sec. 8. For the support of the national guard including transportation of arms, clothing and fuel, stationery and other contingent expenses, \$1,200.00.

For rent and maintenance of armories, \$1,200.00.

Provided, That the salary provided for the adjutant general for the fifty-seventh fiscal year is hereby made applicable in like proportion for the fifty-sixth fiscal year, to take effect from and after the passage of this act.

TERRITORIAL LIBRARY.

Sec. 9. For the printing, binding and delivery of three hundred copies each of volumes 12 and 13 New Mexico supreme court reports, \$1,800.00.

For territorial library for purchase of books, \$2,500.00.

For territorial library, for freight, express, postage, insurance, stationery, printing, labels for books and other necessary incidental expenses, \$500.00.

All appropriations for the territorial library shall hereafter be expended and disbursed under the management and direction of territorial library board of trustees, and said territorial library board of trustees is hereby authorized and empowered to enter into a contract for the printing, binding, and delivery of three hundred copies of each volume of the decisions of the supreme court of the Territory of New Mexico for a period not exceeding ten years; such contract to be approved by the governor of the territory.

Sec. 10. Section 4 of Chapter 97 of the Session Laws of 1903, approved March 18, 1903, be and the same is hereby amended by repealing and striking out the proviso at the end of said section and inserting in lieu thereof the following:

"The auditor of the territory is hereby directed and required to allow the account of the penitentiary verified by the superintendent for the expenses of guards and actual cost of materials furnished at the rate of five dollars for vitrified brick, and three dollars and fifty cents per thousand for common brick and twenty cents per bushel for lime, and shall draw his warrant on the treasury for the same in favor of the superintendent of the penitentiary, which shall be paid out of any funds in the territorial treasury."

MISCELLANEOUS FUND.

Sec. 11. For contingent expenses, governor's office payable upon order of the governor	\$3,000.00
For postage, express, printing, blanks and incidentals, the auditor is hereby allowed for the auditor's office, a like proportion for the 56th fiscal year	1,200.00
For postage, express, printing blanks, publication of quarterly reports, incidental expenses for commissions and exchange the treasurer is hereby allowed for treasurer's office	1,000.00
For expenses of New Mexico Historical Society	500.00
For the purchase of relics, documents and other his-	

	torical objects	500.00
For	printing, postage, freight and incidental expenses, Bureau of Immigration	4,000.00
For	printing and contingent expenses, office of public instruction	400.00
For	traveling expenses and office contingent expenses the traveling auditor is hereby allowed	1,800.00
For	contingent expense and additional clerk hire necessary, the secretary of the territory is hereby allowed	1,200.00
For	printing publications and other necessary printing of report of traveling auditor and bank examiner	300.00
For	postage, express, printing blanks, publication of reports and other incidental expenses of the game and fish warden	500.00
For	printing tax books and schedules, etc.	1,200.00
For	per diem and expenses of sheriffs in conveying prisoners to the penitentiary or so much thereof the may be necessary	5,000.00
For	printing monthly and annual weather reports, snowfall bulletins, weekly crop bulletins, pamphlets and circulars	800.00
For	printing poll books, registration books and other necessary blanks for the election of 1906, and conveying and forwarding election returns to the seat of government, freight and expenses..	600.00
For	printing in Spanish, the laws and journals of the 36th legislative assembly, the same to be delivered to and distributed by the secretary of the territory, and to be paid for upon completion and delivery to the secretary	1,500.00
For	translation of the laws and journals of the 36th legislative assembly, the same to be done under the direction and control of the attorney general of the territory, who shall contract therefor in the name of the territory, to be paid for upon the certificate of the attorney general, certifying that the said translations have been made and completed, the payment for which shall be made out of any funds in the hands of the territorial treasurer: <i>Provided</i> , That such translations shall be completed within 90 days after the adjournment of the 36th legislative assembly: <i>Provided, Further</i> , That the secretary of the	

territory is hereby required to furnish copies commencing within ten days after the adjournment of said legislative assembly of the laws and journals, and from day to day thereafter, as the same may be required for use, for the purpose of making such translations, until such translations shall have been completed, or so much thereof as may be necessary 1,000.00

For printing, postage and distribution among the county officials of the territory by the public printer, a compilation of the revenue laws of the territory; such compilation to be approved by the attorney general, or so much thereof as may be necessary. Said compilation to be in pamphlet form 500.00

All appropriations made for the traveling auditor for contingent expense and traveling expenses shall be paid out of the salary fund monthly. The appropriation hereinbefore made for clerk hire for the traveling auditor and for the contingent and traveling expenses of the said traveling auditor for the fifty-seventh fiscal year is hereby extended to the fifty-sixth fiscal year, from and after the passage of this act.

The appropriation hereinbefore made for the salary of the adjutant general for the fifty-seventh fiscal year is hereby extended to the fifty-sixth fiscal year; to the extent that such salary for the fifty-sixth fiscal year shall equal the sum appropriated for the fifty-seventh fiscal year.

For the superintendent of insurance office, there is hereby appropriated for the purpose of purchasing office furniture, stationery and other contingent expense necessary for the furnishing and equipment of said office, which appropriation shall be payable out of any funds in the treasury, and shall be reimbursed from the insurance fund whenever funds shall be available, or so much thereof as may be necessary, \$1,200.00.

For the relief of the citizens of Chaves county living on the Pecos river an appropriation is hereby made which shall be paid by the treasurer of the territory to the order of the board of county commissioners of Chaves county, to be expended in such manner as will best protect the interests of said residents from future floods, \$3,000.00.

For the purposes of carrying on a summer school in connection with the Normal University at Las Vegas there is hereby appropriated, payable to the order of the board of regents of said Normal University the sum of \$1,200.00.

INSURANCE.

For the purpose of insuring territorial property there is hereby appropriated as follows:

For the capitol building and furniture, \$4,410.00.

Provided, That the superintendent of insurance is hereby directed to insure such capitol building for a term of five years.

For the insurance of the library, \$500.00.

Provided, That the board of trustees of the territorial library are hereby directed to insure such library for a term of five years.

The sum of fifty (\$50.00) dollars of the above appropriation shall be paid out for deficiency on account of insurance heretofore made on said library.

CAPITOL BUILDING.

For employes	\$3,440.00
Fuel and light	1,070.00
Water	900.00
For repairs and improvements and equipment necessary for the capitol building and grounds	2,500.00

Sec. 13. Hereafter each clerk of the district court shall be entitled to receive out of the sums appropriated, pay at the rate of thirty-two hundred (\$3,200.00) dollars per calendar year as full compensation; and the sums of money allowed to district clerks of the district court and judges of such district courts shall be payable quarterly; and the clerks of the district court shall demand and collect in advance all fees payable as clerk's fees in any court and shall promptly turn the same over quarterly to the territorial treasurer. Such clerks of the district court shall hereafter require and collect in advance a fee of five dollars before docketing any case, filed originally in their offices, and shall also collect an advance fee of five dollars (\$5.00) whenever an appearance is entered by any defendant in any civil case, but only one such fee shall be required of all the defendants at the time of entry of appearance in any such case, and two dollars and fifty cents (\$2.50) for docketing any case appealed from the justice of the peace court, probate court or board of county commissioners and shall collect such fees from the plaintiff or appellant as the case may be, when the docket the appeal in the case, and whenever such advance fees shall be consumed, such clerk shall require an additional fee of five (\$5.00) dollars, and shall demand and receive no further fees from either party until all such advance fees have been used and consumed. Such clerks shall be accountable to the party making such advance fees for

any unconsumed fees and shall turn over all fees consumed for which services have been rendered to the territorial treasurer, as hereinbefore provided.

No order, decree or judgment shall be entered of record until all costs are paid for, unless by direction of the court

Said clerks shall be entitled to retain all fees collected for transcripts, seals, certificates and acknowledgments.

The salary allowed to the clerks of the supreme court shall be in lieu of all per diem and fees that the said clerk would be entitled to charge against the territory.

Sec. 14. In lieu of the appropriation made by the 35th legislative assembly, Chapter 108, of the Session Laws of 1903, providing for an appropriation of twenty-five hundred (\$2,500.00) dollars for the relief of the citizens of Grant and Luna counties, living on the Mimbres river, an appropriation is hereby made, which shall be paid by the treasurer of the territory to the order of the board of trustees of the village of Deming to be expended in such manner as will best protect the interests of residents of the Mimbres valley from future floods, \$2,500.00.

LAND COMMISSION.

For salary of commissioner of public lands, \$2,500.00.

For office expenses, commissioner of public land and clerical assistants, or so much thereof as may be necessary, \$2,000.00: *Provided*, That the above appropriation shall be paid out of the salary fund and is hereby extended to the fifty-sixth fiscal year, and hereafter the commissioner of public lands shall turn into the treasury to be credited to the proper funds, the gross amount of moneys received by such commission.

DEFICIENCY.

Sec. 15. For the purpose of paying the outstanding deficiency accounts, there is hereby appropriated as follows:

For the payment of wild animal bounty claims on file with the territorial auditor, which claims have been duly authenticated and approved and assigned to W. C. McDonald, being claims No. 199, 197, and 120, filed in book 1, page 383, and R. P. 383	\$233.50
For the payment of wild animal bounty claims on file and duly authenticated, which claims are held and assigned to E. A. Cahoon and filed on page 383 in the record of the auditor's office, March 1, 1901	290.00

For the payment of rents now due and outstanding for the various armories as follows:

Territorial armory on account of rent due Mrs. Garcia de Quintana at Santa Fe	\$200.00
Company E, Armory	80.00
Company E, Albuquerque	138.00
Company B, at Roswell	97.20
Armory at Silver City	262.00
Freight on arms to Roswell	76.35
For clerical services for Faustin Ortiz in the auditor's office for 1891	780.00

All accounts for deficiency for the payment of armory rents and freight on arms to Roswell herein provided for shall be examined and approved by the adjutant general.

For the payment of accounts due C. A. Robinson, for unpaid balance upon certificate of indebtedness issued by territorial auditor November 22nd, 1892, under provisions of Chapter LCIV, Laws of 1891. \$220.00

For the payment of accounts due C. A. Robinson for balance due on certificate of indebtedness issued by territorial auditor June 9th, 1892..... 46.90

For account due C. A. Robinson in accordance with certificate of allowance issued by the territorial auditor July 6th, 1891

Provided, That such appropriation herein made for C. A. Robinson shall be paid upon surrender of such certificates of indebtedness and allowances duly receipted, so made by such territorial auditor as hereinbefore stated.

For the payment of services rendered by Miss Clara Olsen, during the year 1903

For board of public lands to reimburse same for labor building culverts, drive-ways and material furnished in laying sidewalks about palace building.. 310.14

For the payment of account of Lars M. Larson for amounts paid by him, and his wife, during the years 1895, 1896 and 1897, on account of current expenses of deaf and dumb asylum of Santa Fe.. 789.90

That for the purpose of fully carrying out the objects of an act entitled an act for the collection, arrangement and display of the products of the Territory of New Mexico at the Louisiana purchase exposition, or St. Louis world's fair of 1904, and to make appropriation therefor:

That all acts of said board in relation to their duties as such since the first day of March, A. D., 1905, to the date of the passage of this act are hereby validated and made legal. That there is hereby appropriated the sum of three thousand dollars, or so much thereof as may be necessary out of the Louisiana purchase exposition fund, to liquidate the outstanding indebtedness, and the territorial treasurer is hereby directed to pay the same from said fund upon requisition of said board signed by the president and secretary thereof, and approved by the governor in accordance with the provisions of said act, and the treasurer is hereby directed to transfer all surplus funds over and above the amounts herein named derived from levies made for the Louisiana purchase exposition fund for the 53rd fiscal year and each year thereafter to the credit of the general territorial fund.

That said act entitled an act providing for the collection, arrangement and display of the products of the Territory of New Mexico at the Louisiana purchase exposition or St. Louis world's fair of 1904, and to "make an appropriation therefor," be and the same is hereby continued in full force and effect until the first day of December, A. D., 1905. The said territorial board of Louisiana purchase exposition managers of New Mexico, is hereby continued in existence until December 1, 1905, and the governor is hereby authorized to appoint the members thereof in the same manner as provided in said act.

For the purpose of paying A. J. Abbott for services performed in briefing the supreme court opinions for the years 1903 and 1904, \$500.00.

The auditor of the territory is hereby authorized and directed to audit and allow the account of E. W. Stephens for the amount of \$453.33 actually paid out by him as printer of volumes 3, 4, 5, 6, 7, 8, 9 and 10, of the New Mexico supreme court reports, to the clerk of the supreme court for the copies of the decisions of said court, to enable him to print such reports, which said account shall be verified by said Stephens, and when allowed shall be paid by the treasurer of the territory, on the warrant of the auditor for the same, in favor of the said Stephens, out of any moneys in the treasury.

There shall be paid to the clerk of the supreme court six cents per folio for all copies of the decisions of the supreme court furnished the publisher of the reports of such decisions for which he has not been paid, and a like amount per folio for such copies as he may hereafter furnish to such publisher, said

clerk to furnish the territorial auditor an itemized statement of his account duly verified, and the said amounts shall be paid out of any moneys in the treasury not appropriated for payment of interest.

For publication U. S. geological survey reports to be expended under direction of the School of Mines, or so much thereof, as may be necessary. \$2,500.00

For the purpose of defraying the expenses of statehood committee sent to Washington, D. C., by republican and democratic central committees of the Territory of New Mexico and to be paid to the First National bank of Albuquerque, New Mexico, to take up certain obligations incurred by certain citizens of the territory for the payment of said expenses, and to be paid out of any funds in the hands of the territorial treasurer, the sum of 3,682.25

To James D. Hughes, deficiency account 1903 assessment rolls on file in auditor's office 141.00

To James S. Duncan, deficiency account 1903 council journals 250.73

To James S. Duncan, deficiency account 1903, house journals 757.02

Traveling auditor 671.90

Game and fish warden 55.50

Provided, That the territorial auditor shall not make payments for any of the deficiency appropriations herein made, except upon duly authentic accounts therefor.

Sec. 16. At the end of each fiscal year and after any appropriations and expenditures which may be required to be paid out of any particular fund or funds shall have been paid, all the surplus which shall remain in any or either one of the particular funds, shall be transferred by the territorial treasurer to the credit of the same fund for the following fiscal year. ..

Sec. 17. The same appropriations made for the fifty-seventh fiscal year are hereby extended to the fifty-eighth fiscal year, except the appropriations made for the printing of the laws and journals of the 36th legislative assembly and for the translation of such laws; and for the appropriation made for the relief of the residents of the Mimbres valley, and the appropriation made for the insurance of the capitol buildings and furniture and for the appropriation for insurance for the territorial library and for the appropriation made for the compilation of the revenue laws and for the appropriations made for the payment of the deficiencies which are made applicable to

the fifty-seventh fiscal year only, and shall not extend to the appropriations for the fifty-eighth fiscal year; except that \$900.00 is hereby appropriated for binding, printing, and delivering three hundred copies of volume 14 of the decisions of the New Mexico reports.

Sec. 18. The territorial treasurer shall distribute from territorial taxes, on or before the tenth day of each month, collected during the preceding month for each fiscal year for the credit of each appropriation, in proportion, that each such appropriation bears to the total appropriation.

Sec. 19. The territorial auditor is hereby instructed and directed to levy a tax on all the taxable property of the territory sufficient to raise the amount hereinbefore appropriated for the fifty-seventh and the fifty-eighth fiscal year, and to certify the same at the time and in the manner required by law to the board of county commissioners of the respective counties of the territory.

Sec. 20. Hereafter whenever any subsequent legislature shall fail to pass a general appropriation act, the same appropriation herein made for the fifty-eighth fiscal year, and none other, are hereby extended for each and every subsequent fiscal year thereafter, unless otherwise provided by law, and the territorial auditor is hereby directed to cause a levy to be made sufficient to produce the revenue to meet such appropriation in the manner prescribed by law.

Sec. 21. This act shall be in full force and effect on and after its passage.

CHAPTER 113.

**AN ACT TO REPEAL CHAPTER FIFTEEN OF THE ACTS OF THE THIRTY-FOURTH LEGISLATIVE ASSEMBLY. C. B. No 153:
*Approved March 16, 1905.***

CONTENTS.

Sec. 1. Chapter 15, Laws of 1901, amending Section 3910, Compiled Laws of 1897, repealed. Section 3910, regarding the voidability of certain contracts against public policy, re-enacted.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Chapter 15 of the acts of the 35th legislative assembly entitled "An Act to amend section 3910 of the Compiled Laws of 1897, approved March the 6th, 1901, be and

the same is hereby repealed." And the said section 3910 be and the same is hereby re-enacted.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and effect from and after its passage.

CHAPTER 114.

AN ACT RELATING TO SUPREME COURT PRACTICE AND AMENDING THE STATUTES RELATING THERETO, AND FOR OTHER PURPOSES. C. A. to A. H. B. No. 75; Approved March 16, 1905.

CONTENTS.

- Sec. 1. Section 1, Chapter 4, Laws of 1899, regarding the time of holding the supreme court, amended. Term of supreme court.
- Sec. 2. Return of process.
- Sec. 3. Section 3140, Compiled Laws of 1897, regarding the return of appeals, repealed. Return of writs.
- Sec. 4. Granting of supercedas.
- Sec. 5. Sub-section 161, Section 2685, Compiled Laws of 1897, made applicable to all civil cases.
- Sec. 6. Section 1, Chapter 5, Laws of 1903, amending sub-section 175, Section 2685, Compiled Laws of 1897, amended. Construction of sub-section 175, Section 2685, Compiled Laws of 1897.
- Sec. 7. What shall be deemed sufficient pleadings.
- Sec. 8. Return day.
- Sec. 9. Amendment of defective affidavits, bonds or writs. When alias and pluries writs of attachment or replevin allowed. Proviso.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 1 of the said act of the legislative assembly of the Territory of New Mexico, being Chapter 4 of the acts of 1899, approved February 4, 1899, be and the same is hereby amended to read as follows:

The regular term of the supreme court shall be held at the city of Santa Fe, commencing on the first Wednesday after the first Monday in January in each year, and adjourned terms of said court may be held from time to time between the last day of any regular term and the first day of an ensuing term as the court may deem proper and order.

Sec. 2. All appeals, writs of error, bonds, summons, citations, and other process, heretofore returnable to the first day of the regular term of said court, shall hereafter be returnable

ninety days after such appeals are taken and such writs of error sued out, or such bonds, summons, citations and other process is issued, and the court shall take jurisdiction to hear, determine and dispose of all such appeals, writs of error, bonds, summons, citations and other process from and after such return days in the same manner it has heretofore taken jurisdiction thereof on the first day of the regular annual term of said court. Writs of error and appeals shall be sued out in the manner now provided by law. Whenever a writ of error is sued out citation shall be issued by the clerk of the supreme court, directed to and citing the opposite party to appear to answer such writ; and when an appeal is taken unless the same is taken in open court, the opposite party, or his attorney being present, which fact shall be shown by the record, citation shall be issued by the clerk of the district court, directed to and citing the opposite party to appear in the supreme court and answer such appeal on the return day thereof. Such citations, both in the case of writs of error and appeals, may be served by delivery of copies thereof to the opposite party or his attorney of record in the court below. Such citations may be served by an officer or any other person, and when not by an officer service shall be made to appear by affidavit, or otherwise to the satisfaction of the court.

Sec. 3. Section 3140 of the Compiled Laws of 1897, is hereby repealed, and the following enacted in place thereof: The appellant in cases of appeals and the plaintiff in error in cases of writs of errors shall file in the office of the clerk of the supreme court at least ten days before the return day of any writ of error or appeal, as perfect and as complete a transcript of the record and proceedings in the cause as may be necessary to enable the court to properly review it. If he fails to do so, the appellee or defendant in error may produce in court such transcript and if it appear thereby that an appeal has been allowed in the cause or from the records of the court that a writ of error has been sued out, the court shall upon such transcript affirm the judgment, unless good cause be shown to the contrary. On appeals and writs of error, the appellant and plaintiff in error shall assign errors on or before the return day to which the cause is returnable. In default of such assignment of error the appeal or writ of error may be dismissed and the judgment affirmed, unless good cause for such failure be shown. Unless exception is filed or taken to the assignment of error the opposite party shall be deemed to have joined in error upon the assignment of error so filed.

Sec. 4. Whenever any writ of error is sued out and the

judgment sought to be reviewed is for a recovery other than a fixed amount of money, the chief justice, or any associate justice of the supreme court may by order fix the amount of the bond to be given as a condition for granting the supercedeas, as now provided by law in cases of appeal, and upon the making of the said order and the giving of the bond to be approved by the judge making the order, the supercedeas shall at once go into effect and the judge shall certify his approval of the bond and his order allowing said supercedeas, and upon the filing in the office of the clerk of the supreme court of the same, the said clerk shall thereupon issue the writ of error as in other cases, and the said order fixing the bond and granting the supercedeas, shall also be entered in the district court in which the judgment sought to be reviewed by writ of error was rendered. But the provisions of this section shall not affect causes now pending on appeal nor writs of error heretofore sued out.

Sec. 5. Sub-Section 161 of Section 2685 of the Compiled Laws of 1897, shall hereafter be held to apply to all civil cases, and such cases may hereafter be reviewed either by writ of error or appeal.

Sec. 6. Section 1 of the act of the legislative assembly approved February 19, 1903, being Chapter 5 of the acts of the 35th legislative assembly, is hereby amended so as to read as follows:

Sub-Section 175 of Section 2685 of the Compiled Laws of New Mexico of 1897 be and the same is hereby amended so as to read as follows: All statutes in force at the date of the passage of this act, (Section 2685) or enacted since then, or hereafter enacted relating to habeas corpus, mandamus, prohibition, quo-warranto, replevin, attachment, ejectment, eminent domain, suits for partition of real estate, actions to determine and quiet title to real property, proceedings for the sale of real estate of infants, shall not be held to be repealed by the enacting of said Section 2685 of the Compiled Laws of 1897, but said Section 2685, and all other statutes relating to said subject shall be construed together as if all of said laws were enacted at the same time, and shall receive such construction from the court as to harmonize the same as parts of one act, and no repeal shall be held to have been made by implication or conflict, except so far as may be necessary to harmonize the said laws and give effect to them as one uniform system.

Sec. 7. That the statement of all causes of action and the allegations of all pleadings shall be made in arrangement and form as provided by Section 2685 of the Compiled Laws of 1897, as amended and supplemented, but in actions by attachment, replevin, ejectment, eminent domain, for partition of, or

quieting the title to real estate, to subject the real property of decedents to the payment of their debts, suits in the district court for the sale of infants' real estate, and in habeas corpus, mandamus, quo warranto, and prohibition proceedings, the pleadings shall be deemed sufficient where they conform substantially in their material allegations to the requirements of the special statutes relating to the several said actions suits or proceedings.

Sec. 8. That all writs, summons, citations, and other process in habeas corpus, mandamus, quo warranto and prohibition proceedings, shall be issued, made returnable, served and returned as the court, in each instance, may direct, but where a return day is fixed it shall be for a day not more than thirty days beyond the date of the order granting the writ of other process.

Sec. 9. That where an original writ of attachment or replevin has been quashed for defect in the affidavit, bond or writ, the court shall allow an amendment thereof, to cure the defect under such circumstances of ordinary pleadings are allowed by law, and with like effect; and alias and pluries writs of attachment or replevin shall be issued in the following cases; where, in attachment, under a prior writ an insufficient amount of property has been levied upon to satisfy the amount of damages claimed in the affidavit, with costs accrued or likely to accrue; also where a prior writ has been quashed for defect therein that cannot be cured by amendment: *Provided*, That in a former case an additional affidavit and bond shall be required of the attaching plaintiff, and in replevin where the property to be replevined has not been found in the county to or in which the original writ was directed or attempted to be served, and the plaintiff wishes to undertake the levy upon property in another county; but where the goods and chattels described in the affidavit and writ of replevin are not found, the action will not abate, but may proceed as for conversion, upon the facts set out in the complaint.

Sec. 10. This act shall be in force from the date of its passage. Section 6 of Chapter 75 of the Laws of 1899 and all other acts or parts of acts in conflict herewith are hereby repealed.

CHAPTER 115.

AN ACT TO AMEND SECTION 4124 OF THE COMPILED LAWS OF THE TERRITORY OF NEW MEXICO OF 1897, AND FOR OTHER PURPOSES. C. S. for C. B. No. 24; Approved March 16, 1905.

CONTENTS.

- Sec.** 1. Section 4124. Compiled Laws of 1897, regarding amount to be paid for liquor license, amended. Proviso—no license to be granted except in city, town or village of at least one hundred inhabitants.
- Sec.** 2. Saloons prohibited within certain distances of certain institutions.
- Sec.** 3. Granting of liquor license for sale of less than five gallons within three miles of certain construction camps, prohibited. Proviso.
- Sec.** 4. When liquor license may be revoked. Proviso.
- Sec.** 5. Violation of sections 2 and 3, a misdemeanor.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 4124 of the Compiled Laws of the Territory of New Mexico of 1897, is hereby amended by adding thereto the following:

“Provided, That no license shall be granted for the sale of malt, vinous or spirituous liquors at any place in any county of this territory, except within the limits of a city, town or village containing at least one hundred inhabitants; and any officer authorizing or issuing a license contrary to this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars.”

Sec. 2. It shall be unlawful for any person, company or corporation to establish or conduct a saloon for the vending or sale of spirituous, vinous, or malt liquors within a distance of five miles of any United States government sanitorium, or within a distance of two miles of any military reservation in New Mexico, or within one mile of the established boundaries of the New Mexico College of Agriculture and Mechanic Arts or within one-half mile of the University of New Mexico or the School of Mines, and no license shall be issued for such purpose, but this section shall not apply to any saloons previously established.

Sec. 3. It shall be unlawful for any territorial or county official authorized by law, to grant, retail liquor license to any person, firm or corporation to sell or otherwise dispose of malt, spirituous or vinous liquors in less quantities than five gallons

within three miles of any camp, assembly of men engaged in the construction of any railroad, canal, reservoir, public work or other kindred enterprise where 25 or more men are engaged. And it shall be unlawful for any person, firm or corporation to sell or offer for sale, barter or exchange, or otherwise dispose of any spirituous, malt or vinous liquors in less quantity than five gallons within three miles of any such camp or assembly of men, as herein specified, and any attempt to evade the provisions of this act by giving away any such liquors to any person on the pretense or for the reason that such person has purchased or designs or is expected to purchase some other article, shall be deemed a sale within the meaning of this act: *Provided*, That the provisions of this section shall not apply to sales made under a license issued to authorize such sales in any incorporated town or city or towns of more than 300 inhabitants, or to those authorizing such sales outside of the limits of cities and towns, which may have been issued, or the places of business where such sales or license is to be made may have been established for six months prior to the passage of this act, or prior to the beginning of any such work as specified herein within said three mile limit.

Sec. 4. Any retail liquor license granted as provided for by law may be revoked by the board of county commissioners of the county wherein the same was or is issued, for the purpose of conducting a saloon outside of any incorporated village, town or city, and the same may be revoked by the municipal authorities of such incorporated town, village, or city, when any saloon is conducted therein, and the license money paid shall be forfeited, for the following reasons, to-wit: *Provided*, That the authorities mentioned herein upon a hearing given any person so licensed, shall be satisfied that such person has violated any of the provisions specified in said license, or by selling or attempting to sell retail liquors aforesaid outside of the locality for which such license was granted or if such person is conducting a disorderly or ill-governed saloon house or place, or a place of resort for idle or dissolute persons, or conducts any gambling therein without having a license therefor, or by permitting women to frequent such saloon.

Sec. 5. Any person who shall violate any of the provisions of sections 2 and 3 of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than ten nor more than ninety days, or both, in the discretion of the court.

Sec. 6. All acts and parts of acts inconsistent herewith are

hereby repealed and this act shall take effect and be in force from and after the date of its passage and approval.

CHAPTER 116.

AN ACT TO DEFINE THE QUALIFICATIONS AND REGULATE THE DRAWING OF JURORS. *A. C. B. No. 111; Approved March, 16, 1905.*

CONTENTS.

- Sec. 1. Qualifications for service as grand and petit juror.
- Sec. 2. Classes exempted from services.
- Sec. 3. Jury commission.
- Sec. 4. Jury commission to select persons liable to jury duty. Names selected to be recorded.
- Sec. 5. Oath of jury commissioners.
- Sec. 6. County commissioners to provide district clerk with box.
- Sec. 7. Tampering with box a misdemeanor. Penalty.
- Sec. 8. Clerk to insert names selected by jury commission in box.
- Sec. 9. Selection of grand and petit jurors. Proviso.
- Sec. 10. When person selected as jurors will be excused.
- Sec. 11. Clerk to keep record of names drawn from box as well as names placed in box. Lists open to inspection. Lists and names must correspond.
- Sec. 12. Filling or completing panel. Proviso.
- Sec. 13. Provision for boxes in counties where causes are tried under the laws of the United States.
- Sec. 14. U. S. Marshal to provide box required in section 13.
- Sec. 15. County commissioners to prepare and send to clerk of district court, jury lists.
- Sec. 16. Provisions relating to vacancies.
- Sec. 17. District judge to apportion names to be drawn for jury duty in U. S. cases.
- Sec. 18. No name to be placed on list which was on, in previous calendar year.
- Sec. 19. Jurors for courts to be held after May 15, to be drawn and selected under provisions of this act.
- Sec. 20. Judge of district being unable to perform duty, judge of another district to perform. Judges to make proper orders for enforcement of act.
- Sec. 21. Box to be shaken before names drawn.
- Sec. 22. Failure of clerk to place on jury venire name of proper person, a misdemeanor. Penalty.
- Sec. 23. Officers failing to enforce provisions of act, guilty of misdemeanor. Penalty.
- Sec. 24. Duty of officer in summoning persons.
- Sec. 25. Number in grand juries. Return of venire.
- Sec. 26. Compensation of jury commissioner.
- Sec. 27. Chapter 66, Laws of 1899, regarding the selection of jurors, repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Every male citizen of the United States over the age of twenty-one years of sound mind who has been a bona fide resident of the territory for one year of the county and

district for which he may be selected or drawn for six months immediately preceding his being selected or drawn as a juror who has not been convicted of any infamous crime or subject to any of the disqualifications mentioned in the next succeeding section shall be qualified and liable to be selected, summoned and serve as grand and petit jurors in the county or district where he resides.

Sec. 2. The following classes of persons and none others shall be exempt from sitting or serving as jurors in any of the courts of this territory. All persons holding any office of trust or profit in this territory by virtue of their appointment or commission from the government of the United States, or territorial, district or county offices except notary public and school director; all practicing physicians, attorneys-at-law, ministers of the gospel, professors and teachers of colleges, and other institutions of learning who are actually engaged in following their business or profession and all persons over the age of sixty years, but, no disqualification or exemption shall of itself vitiate any indictment found or any verdict rendered by any jury unless actual injury to the person complaining of the same shall be shown but such exemption shall operate as an excuse from jury service.

Sec. 3. That it shall be the duty of the several judges of the district courts to summon before him in open court at least once a year in the several counties of the territory where courts are to be held and to appoint three persons of integrity and good repute, who are qualified to serve as jurors under the provisions of this act, not more than two of whom shall belong to the same political party, to constitute a jury commission for said county for a period of twelve months succeeding the date of such appointment.

Sec. 4. Said jury commission shall select at least three hundred names provided there are so many persons in said county possessing the qualifications for jurors and if not then such number as the judge may order and such additional number of names as the judge of the court may direct them to select in counties having large population. For the purpose of determining how many jurors are to be selected the judge shall take into consideration the population of the counties but the number so selected shall in all cases equal one-tenth of the voting population of said counties as shown by the last registration of voters in said county, the persons so selected shall possess the qualifications of jurors as provided by this act. The names so selected shall be entered upon a roll or in a well bound book kept for that purpose, which books shall be delivered to the clerk of the district court for the judicial district in which

such county is located and said names shall be written in a **clear**, distinct and legible manner.

Sec. 5. The said commissioners shall attach to the said list **an** oath taken and subscribed by him before some person **authorized** to administer oath, in the form following: "We

..... the jury commssioners appointed to serve **as** a jury commission within and for the county of

....., Territory of New Mexico, do solemnly swear that the **foregoing** list containing names of persons **selected** by us to form a jury list for the ensuing twelve months **are** persons who are liable and qualified to serve as jurors in the Territory of New Mexico so far as each of us had been able to ascertain after diligent inquiry and examination and we do further solemnly swear that we have not knowingly placed upon the said list the name of any person who is not believed by us to be liable and qualified for jury duty and that we have selected the said list impartially and to the best of our ability in accordance with provision of the jury law as explained to us by the judge of the district court, and that we have not selected any person whom we have reason to believe has any interest directly or indirectly in any suit, cause of action, criminal or civil now pending or which is liable to be under investigation or come before the said court for trial during the next ensuing twelve months and that we have not selected any person through favor or partiality, or for any other reason except to provide a list of suitable persons for jury duty in said county, and that we have placed no name on said list at the suggestion of any person other than ourselves. So help us God.

.....

Subscribed and sworn to before me this day of

.....

Sec. 6. It shall be the duty of the several boards of county commissioners in the various counties of this territory to provide the district clerk of the judicial district within which said boards of county commissioners respectively reside, one wheel or box, constructed in part of glass in such manner that the entire contents of such wheel or box may be clearly visible when such wheel or box may be closed or locked, as hereinafter provided and also all necessary materials for sealing and locking the said wheels or boxes in accordance with the provisions of this act.

Sec. 7. It shall be the duty of the district clerk to carefully preserve and protect the wheel or box so provided and any

clerk who shall fail to do so willingly and any person who shall knowingly or wilfully break or destroy any such wheel or box while the same contains the names of jurors as hereinafter provided or who shall unlawfully take or remove therefrom any name therein contained, or who shall unlawfully insert or put therein any name of any person except as provided by the terms of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished thereof by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment in the penitentiary or county jail not to exceed two years or by both such fine and imprisonment in the discretion of the court.

Sec. 8. It shall be the duty of the clerk of the district court to transcribe the names selected by the said commission as required by this act upon slips of plain white paper two inches long and a half inch wide, not more than one name on each slip of paper and having so transcribed the names to fold said slips in a uniform way in such a manner that no part of the same so written upon any one of said slips of paper can be seen without unfolding the same and in the presence of the district judge and such citizens as shall desire to be present to insert the said slips in one of the wheels or boxes provided for by this act to be furnished by the county commissioners and to secure the said lock and seal of the said wheel or box and to deliver the key thereof to the judge of the district court.

Sec. 9. Not less than ten days nor more than thirty days before the first day of any term of each district court to be held in any county of the territory, it shall be the duty of the judge of the district court with the assistance of the clerk of this court and in the presence of at least three of the representative citizens of the county and such other citizens as shall desire to be present to draw from the said wheel or box a sufficient number of names from which to constitute the grand jury and a sufficient number from which to constitute the petit jury at said ensuing term of court and the slips of paper containing the names so drawn shall be by the clerk then and there transcribed and placed of record in said court and shall constitute the venires for grand and petit jurors, and the said venires having been made up the said list attested by the signature of the judge shall be sealed up in an envelope, properly endorsed and preserved until the jurors shall be regularly empaneled for such term of court: *Provided, However,* That the district judge may at his discretion, cause to be drawn for grand jurors six names in excess of the number required by law to constitute a grand jury and not exceeding twelve names in excess of the

number necessary to constitute a petit jury: *And, Provided, Further,* That the names so drawn shall be set down upon the list in the order in which they are drawn from the wheel or box; *And Provided, Further,* That if a number more than sufficient for the organization of the respective juries shall be summoned by the sheriff the juries shall be made up of the qualified persons so present, in the order in which their names are drawn from the wheel box, except as to such persons who may be excused by the court for good cause shown. At least ten days before the drawing of the names from the box or wheel as provided by this section, notice of the time and place of drawing the same shall be given by posting such notice on the court house door of the county or publishing same in some newspaper in the county.

Sec. 10. Any persons summoned as jurors under the provisions of this act shall not be excused from service by the district judge except for good and sufficient reasons. If it shall appear to the judge of the district court that any person whose name shall be found in the wheel or box containing the name of the jurors, or that such person is not a person of good moral character or not qualified to serve as provided by this act, the judge of the district court may cause the name of any such person or persons to be taken from the list and the slip or slips containing the name or names of such person or persons to be destroyed, when drawn in the regular course.

Sec. 11. The district clerk shall keep a list of the names drawn from said box or wheel as well as the list of the names placed in said box or wheel so that from inspection of the same it can always be ascertained what names have been drawn from said box or wheel and what names should remain in the same. Said list shall be open for inspection at the time of the drawing of the jurors of any citizen who shall demand the right to inspect the same, and upon application to the court by any person interested in any case civil or criminal pending in said court or to be investigated by any grand jury in said court or his attorney the court shall cause the said box to be opened in his presence and the slips with the names thereon, contained therein, to be opened and compared with the lists required to be kept by this section and if any name is missing from the said box or wheel, or any name is found therein which is not in accordance with the said lists; that is to say, if the names in said box fail to correspond with the names which said lists show should be in the box at the time of such examination, then the judge shall cause the proper correction to be made in

the same slips in said box or wheel to make it correspond with said lists and the box or wheel shall be sealed, locked or fastened and used when required in accordance with the provisions of this act. The key of the said box or wheel shall at all times be kept in the custody of the judge of the district court.

Sec. 12. If a vacancy shall occur in the regular panel of the grand or petit juries; or if additional talesmen are required to complete such panels or to complete the jury to try any cause the names of the persons to fill said vacancies or complete said panels or jury shall be drawn from said box in the manner provided for drawing the said regular panels in section 9 of this act, except that no additional notice shall be given: *Provided*, That the district judge may, in his discretion, return to the box the name of any person drawn to fill a vacancy, or as a talesman, who, in the opinion of the judge resides so far from the place where the court is held as to render it inexpedient to summon such person, but the slip of paper containing the name of any person who shall be drawn to fill a vacancy or as a talesman and who shall not serve in such capacity shall be replaced in the said box or wheel.

Sec. 13. In the several counties of this territory where causes are tried under the laws of the United States, that is to say: The counties of Santa Fe, Bernalillo, San Miguel, Las Cruces, Otero, Chaves and in any county where such courts may hereafter be held there shall be supplied and kept separate wheels and boxes from which after the names have been placed herein as hereinafter provided, the names of persons to constitute the jurors for the trial of causes under the laws of the United States and the grand juries drawn for the purpose of investigating offenses under laws of the United States shall be drawn.

Sec. 14. The said boxes for the drawing of the grand and petit juries mentioned in the last preceding section shall be purchased by the marshal of the United States and shall be charged to the court funds of said counties in proportion to the last assessed valuation of the property in each of said counties and said boxes or wheels shall in every respect conform to and be similarly constructed as the boxes and wheels to be provided by the boards of county commissioners for their several counties under this act.

Sec. 15. The several jury commissions for the several counties in each judicial district, as constituted by section 3 and 4 of this act, at the same time and place when they make the list of names required to be made under the provisions of section 4 of this act shall likewise make and certify another list of

names and attach thereto an affidavit as hereinbefore provided by section 5 of this act (making only the necessary changes to conform to the facts) of so many persons as the judge of the district court may direct them to select duly qualified to serve as jurors in their said counties under the provisions of this act; which said lists when so made shall be filed and kept as hereinbefore provided for the lists of jurors to serve in the district court for the several counties. Upon receipt of the said lists from the several counties the clerk of the district court shall make out slips containing the said names and the same shall be placed in the said box or wheel provided for in section 14 of this act and similar lists shall be kept and filed by the clerk in the case of the jury lists of persons selected by said commission to do jury duty in the district court held for the several counties, and similar care, custody, and use of the said boxes or wheels with the names therein placed by the said clerk in the same manner and upon the same notice and before the same witnesses, officers and citizens as provided for the use of the care, and custody of the boxes and lists made and used for drawing juries for said district court for said county. The clerk shall upon receipt of the said lists of names of persons to constitute the jury lists for the ensuing twelve months for the use in said court held for the trial of causes arising under the laws of the United States shall prepare slips of paper and place the names of said persons thereon and the same shall be folded and placed in said boxes or wheels used for that purpose as herein provided for said juries drawn for said district courts held in said counties.

Sec. 16. All provisions of this act relating to the selection of names to fill vacancies or talesmen or juries or replacing of names in said box, or the examination and comparison in said names in said box or wheel with lists of the names on file with the clerk shall also apply to the said list, boxes and wheels provided for the purpose of drawing jurors to serve in said district court held for the trial of causes arising under the laws of the United States.

Sec. 17. The district judge shall apportion the number of names to be drawn by said commission and placed on the lists of persons selected as eligible for jury duty and placed on said lists and in said boxes or wheels as provided by this act among the several counties composing the judicial district for which such juries are to be drawn in accordance with the population of the said counties and shall direct said names to be selected and said lists to be made in accordance with said apportionment making the total number of names to be placed upon said lists and in said boxes or wheels for the whole of said districts

not less than one thousand for each district. And in selecting said lists for said purposes the said commission shall not place upon said lists the name of any person who is selected at the same time to go upon the list to be used for the selection of juries for the district courts to be held for territorial purposes in the several counties.

Sec. 18. The name of no person shall be placed on any of the lists provided to be made under the provisions of this act or shall be selected for that purpose whose name has been upon the lists made at any time during the previous calendar year, under this act or in any list in use immediately preceding the one being made, or for which selections are being made, and, if a comparison shows that any such person has been selected and his name placed on such list in violation of this section his name shall be expunged from the list and taken from the said boxes or wheels in the manner hereinbefore provided for the examination and direction of the names on said lists and in said boxes and wheels and the names of all persons who have died, or who have otherwise become disqualified shall be expunged from said lists and if drawn from said boxes or wheels when the names for jurors are being drawn shall be disregarded and destroyed.

Sec. 19. The jurors for all the counties and districts and for courts to be held therein from and after the fifteenth day of May shall be drawn and selected under the provisions of this act and if the juries have already been selected and drawn for such courts under existing acts such selections and venires shall be set aside and disregarded and new panels selected under the provisions of this act.

Sec. 20. In case of the absence, sickness, or inability to act, or of a vacancy in the judgeship in any district, or of the judge of such district at the time that it is necessary for any duty to be discharged by the district judge under the provisions of this act, such duties shall be discharged by some other district judge of the territory or by the chief justice thereof, and for such purpose the key to any of the said wheels or boxes shall be delivered to the district judge discharging such duty and upon the discharge of the same, and as soon thereafter as is convenient and proper said key shall be returned to the judge of the district in whose custody it properly belongs. The judges of the district court shall take such proper steps and make the proper orders to enforce this act, as may be necessary, immediately after its passage for the year 1905, beginning with the fifteenth day of May as hereinbefore provided. In every year

after 1905 the said district judges shall cause said election to be made and said lists prepared and all other things necessary to be done, for the enforcement of this law at the first term of court held in each county and district in each year. If at any time it shall appear to the judge of any district court that the names in said boxes or wheels are becoming exhausted, and in every case where the number of names left in the box or wheel has been reduced more than half of the original number placed therein the district judge shall call the said jury commission together and cause a new list of names to be made from which slips shall likewise be made and placed in said box so as to replace the names in the boxes or wheels to the full number of names placed therein for the year for which they were selected.

Sec. 21. Before any drawing of names from any jury box under the provisions of this act, the wheel or box shall be thoroughly revolved or shaken so as to mix the slips of paper containing the names therein, and as the drawing proceeds the said wheel or box shall be revolved or shaken so as to change frequently the relative position of the said slips of paper.

Sec. 22. Any clerk of the district court, or his deputy, or other person who shall place upon any jury venire the name of any person not properly selected and drawn as a juror, or who shall omit from any such venire the name of any person so properly drawn and selected, wilfully and knowingly shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed in section 7 of this act.

Sec. 23. Any officer charged with the duty of summoning jurors in any of the district courts of this territory, who shall wilfully fail, refuse or neglect to summon any person whose name shall be legally placed in his hands to be summoned as a juror and any such officer who shall make a false return upon any venire of grand or petit jurors, and any officer or any other persons who shall wilfully violate this act, or knowingly and wilfully refuse to perform any duty with the performance of which he is charged, or any such officer or person who shall knowingly and wilfully improperly discharge such duty shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished in the manner provided by section 7 of this act.

Sec. 24. Every officer to whose hands shall come a venire for jurors who shall be unable to summon any person whose name shall be found upon any such venire shall state in his return what efforts he has made to find any such person and

any such return shall be deemed and held by the court to be insufficient if it shall not appear that the officer in his effort to serve such person has visited at least the usual place of abode of such person, if such person shall have a usual place of abode in the county, and in every such case it shall be the duty of the officer to use extraordinary diligence to serve all persons whose names are found upon any such venire and to make return of that fact to the court.

Sec. 25. The grand juries provided for by this act shall consist of twenty-one persons and the petit jury panel shall consist of twenty-four persons, and twelve grand jurors shall concur in finding an indictment. The venire for any jury may be made returnable upon such day of the term of the district court as the judge thereof in his discretion shall determine. Juries for special terms of court shall be drawn and summoned in the same manner as jurors for regular terms of court.

Sec. 26. Each jury commissioner shall receive six cents per mile each way for each mile necessarily traveled in going to and returning from the county seat for the discharge of his duties as such commissioner, and three dollars per day for each day on which he is actually engaged in the discharge of his duties.

Sec. 27. The act approved March 16, 1899, entitled an act for the selection of jurors and all acts in amendment thereof are hereby repealed but this repeal shall not apply to jurors selected prior to the time that this act goes into effect.

All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in force from and after June 30, 1905.

CHAPTER 117.

AN ACT RELATING TO SALARIES AND FEES OF PROBATE CLERKS AND EX-OFFICIO RECORDERS AND COUNTY SUPERINTENDENTS OF SCHOOLS. *C. B. No. 133; Approved March 16, 1905.*

Sec. 1. Salaries of probate clerk in counties of different classes.

Sec. 2. Section 6, Chapter 27, Laws of 1901, regarding the compensation of county superintendents of schools, repealed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Sec. 1. From and after April 1, 1905, the probate clerks and ex-officio recorders of the several counties of New Mexico,

for all services rendered as such and as ex-officio clerks of the boards of county commissioners or under their direction, and for keeping accounts with the collectors and treasurers of their respective counties, shall receive salaries as follows, to-wit:

In counties of class "A," one thousand dollars per annum;

In counties of class "B," seven hundred and fifty dollars per annum;

In counties of class "C," six hundred dollars per annum;

In counties of class "D," four hundred dollars per annum;

In counties of class "E," four hundred dollars per annum.

In addition to such salaries they shall receive the fees now provided by law, and no further or other salary or compensation of any character.

Sec. 2. Section 6 of Chapter 27 of the acts of the thirty-fourth legislative assembly of the Territory of New Mexico, is hereby repealed, to take effect January 1, 1907, and the provisions thereof shall not apply or be extended to any county in said territory not designated as a county of the first class at the time said section became law.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage and approval.

CHAPTER 118.

AN ACT CHANGING THE NAME OF THE OFFICE OF SOLICITOR GENERAL TO THAT OF ATTORNEY GENERAL AND FOR OTHER PURPOSES. A. C. B. No. 127, Approved March 16, 1905.

CONTENTS.

Sec. 1. Title of solicitor general changed to attorney general.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The title of the office of solicitor general is hereby changed from that of solicitor general to attorney general but the said office shall continue the same as it now is except the change of name, and this act shall not be construed to change or in any way interfere with the powers and duties of the solicitor general as now provided by the acts of congress or the territorial legislature.

Sec. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 119.

**AN ACT RELATING TO THE CHANGING OF COUNTY SEATS. C.
B. No. 85; Approved March 16, 1905.**

CONTENTS.

Sec. 1. Section 630, Compiled Laws of 1897, regarding the removal of county seats, amended. Removal of county seats. Provisos.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 630 of the Compiled Laws of the Territory of New Mexico of 1897 be, and the same is hereby amended so as to read as follows: "Section 630. Whenever the citizens of any county in this territory shall present a petition to the board of county commissioners signed by qualified electors of said county equal in number to at least one-half the legal votes cast at the last preceding general election asking for the removal of the county seat of said county to some other designated place, which petition shall be duly recorded in the records of said county, said board shall make an order directing that the proposition to remove the county seat to the place named in the petition be submitted to a vote of the qualified electors of said county at the next general election, if the same is to occur within one year from the time of presenting said petition, otherwise at a special election to be called for that purpose at any time within eight months from the date of presenting said petition: Provided, That before making such order the board of county commissioners shall require from the petitioners or from the persons interested in the removal of said county seat a deposit of twenty-five thousand dollars in money, which said deposit shall be placed in the treasury of said county, which said sum of money when so placed in said treasury shall be used in the construction of a court-house and jail, in the event that the proposition for removal shall receive a majority of the votes cast at such election: *And, Provided, Further,* That the city, town or village named in the petition shall be at least twenty miles distant from and of a population at least one-third larger than the population of the then county seat of said county, which said population shall be ascertained and determined by the said board of county commissioners; and that no proposition to remove a county seat from a city, town or village situated on a railroad to one not so situated shall be

entertained or voted upon and that no vote shall be ordered on substantially the same proposition oftener than once in ten years.

Sec. 2. This act shall be in effect and force from and after its passage.

CHAPTER 120.

AN ACT ENTITLED AN ACT WITH REFERENCE TO QUALIFICATIONS OF DEPUTY SHERIFFS. C. B. No. 154; Approved March 16, 1605.

CONTENTS.

Sec. 1. Qualifications of deputy sheriffs.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Hereafter no person who may be under indictment or may be generally known as a notorious bad character, or as a disturber of the peace shall be eligible to serve as a deputy sheriff, and sheriffs are hereby prohibited from issuing commissions to such persons as deputy sheriffs, and it is hereby made the duty of the judge of the district court upon complaint being made that the provisions of this act have been violated to investigate the same, and if found to be true, such judge of the district court is hereby given authority to revoke any such commission given by any sheriff contrary to the provisions of this act.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 121.

AN ACT RELATING TO THE PUBLICATION OF PROCESS AND THE SERVICE OF PROCESS BY PUBLICATION. C. B. No. 141; Approved March 16, 1905.

CONTENTS.

Sec. 1. Publication of process and service of process by publication.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. In all causes and proceedings commenced and pending in the district courts of the Territory of New Mexico

wherein it is necessary to secure service of process against any of the parties to said cause or proceeding by publication, and in all causes or proceedings wherein publication is necessary, it shall be the duty of the clerk of the district court wherein each cause or proceeding is pending to cause such publication to be made in some newspaper in the county wherein such cause or proceeding is pending.

Sec. 2. This act shall be in force and effect from and after its passage.

CHAPTER 122.

AN ACT AMENDING AN ACT ENTITLED "AN ACT CREATING THE OFFICE OF OIL INSPECTOR AND PROVIDING FOR THE INSPECTION OF COAL OIL, GASOLINE AND NAPHTHA IN THE TERRITORY OF NEW MEXICO." C. B. No. 147; Approved March 16, 1905.

CONTENTS.

Sec. 1. Chapter 66, Laws of 1905, regarding the inspection of coal oil, amended. Words "naptha," "engine naptha," and "43 specific gravity" stricken out.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That house bill 74 entitled "An Act creating the office of oil inspector and providing for the inspection of coal oil, gasoline and naptha in the Territory of New Mexico," be and the same is hereby amended by striking out the word "naptha" or "engine naptha," also the words "43 specific gravity" wherever said words may appear in said act, and the provisions of said act shall not apply to naptha or engine naptha, and said act shall not be in full force and effect until thirty days after the approval thereof.

Sec. 2. This act shall be in full force from and after its passage.

CHAPTER 123.

AN ACT DESIGNATING THE METHOD OF PAYMENT OF CERTAIN APPROPRIATIONS WITH REFERENCE TO THE COUNTY OF TAOS. C. B. No. 150; Approved March 16, 1905.

CONTENTS.

Sec. 1. Territorial treasurer to pay over appropriation for flood sufferers of Taos county to committee. Duty of committee.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The territorial treasurer is hereby directed to pay over the appropriation provided in council bill No 40, for the relief of the flood sufferers of Taos County, to a committee of three persons, resident of said county, which committee shall be designated by the governor. Said committee are hereby required to distribute said appropriation in accordance and under the provisions of said council bill No. 40, in the same manner as provided for such distribution, by the board of county commissioners; it being the intent of this act that said appropriation so made shall be distributed under the supervision of said committee in lieu of the board of county commissioners of said county.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 124.

AN ACT RELATING TO PUBLIC HIGHWAYS. C. B. No. 116; Approved March 16, 1905.

CONTENTS.

- Sec. 1.** What roads to be public highways.
Sec. 2. Maintenance of public highways.
Sec. 3. Discontinuance of public highways. Proviso.
Sec. 4. Alteration of road and establishment of new road.
Sec. 5. Deposit necessary for viewing of proposed road.
Sec. 6. Where proposed highway is on the county line, concurrence of both counties necessary. Joint maintenance.
Sec. 7. Board of commissioners to view and mark out proposed road.
Sec. 8. Probate clerk to give viewers appointed, notice. Duty of viewers.
Sec. 9. How notice of appointment served. Penalty for failure to act.
Sec. 10. Manner of viewing and marking out roads. Assessments of benefits and damages.

- Sec. 11. Vacancies.
- Sec. 12. Report of viewers. Compensation.
- Sec. 13. County commissioners to determine the advisability of roads.
- Sec. 14. Reports and plats to be recorded.
- Sec. 15. County commissioners to declare road a public highway. *Notices. Proviso.*
- Sec. 16. County treasurer upon warrant, to pay damages.
- Sec. 17. Right of appeal, when damages considered inadequate.
- Sec. 18. Required width of public highways.
- Sec. 19. Petition for public highway.
- Sec. 20. The laying out of private wagon road from dwelling to public highway.
- Sec. 21. When probate clerk to notify overseer. Fee account of notice.
- Sec. 22. When fords deemed part of public highway. Penalties for obstruction of fords.
- Sec. 23. Work on bridges costing over \$300 to be let out on contract. *Proviso.*
- Sec. 24. Road districts. Road overseers.
- Sec. 25. Road tax.
- Sec. 26. Road tax to be paid to road overseer.
- Sec. 27. Duty of road overseers to keep roads in repair. *Proviso.*
- Sec. 28. Delinquency in payment of road tax.
- Sec. 29. When employers required to furnish list of employes liable to payment of road tax.
- Sec. 30. Notice to debtor of delinquent tax payer to pay taxes.
- Sec. 31. Effect of service of notice.
- Sec. 32. When debtor liable for costs accruing in garnishment proceedings.
- Sec. 33. Collection of delinquent taxes.
- Sec. 34. Report of road overseers to county commissioners.
- Sec. 35. Compensation of road overseers.
- Sec. 36. Obstruction of highways prohibited.
- Sec. 37. Damming of waters causing the overflow of any road prohibited. *Penalty.*
- Sec. 38. Persons owning or constructing ditches, flumes, etc., across highways, to provide safe ways across highways. Penalties.
- Sec. 39. Use of local material and labor.
- Sec. 40. Action for recovery of fines, etc., incurred under act.
- Sec. 41. Chapter 40, Laws of 1901, regarding public highways, repealed. Act not to conflict with Chapter 7, Laws of 1905.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. All roads and highways, except private roads, heretofore established in pursuance of any law of the Territory of New Mexico, and roads dedicated to public use, that have not been vacated or abandoned, and such other roads as are now recognized and maintained by the corporate authorities of any county in this territory, are hereby declared to be public highways.

Sec. 2. All public highways, except such as are owned and operated by private corporations, and highways within the corporate limits of any incorporated city or town, shall be maintained and kept in repair by the respective counties in which they are located.

Sec. 3. Whenever, in the opinion of the board of county commissioners of any county, any road or part of road then established and maintained as a public highway, is not needed, or the repairs of the same are burdensome and in excess of the

benefits therefrom, they may at a regular meeting appoint a board of commissioners of three freeholders of the county as viewers, to view such road or part of road, and make report thereof to the board of county commissioners at their next regular meeting, setting forth fully their finding, and if they recommend a discontinuance of such road or part of road, then the board of county commissioners may order the same vacated: *Provided*, That if such road runs on the county line between two counties, the county commissioners of both the counties interested shall appoint viewers, and the concurrence of the county commissioners of both counties shall be necessary to vacate it.

Sec. 4. The board of county commissioners may alter, widen or change any established road or lay out any new road in their respective counties, when petitioned by ten free-holders residing within two miles of the road sought to be altered, widened, changed or laid out. Said petition set forth a description of the road sought to be altered, widened or changed and if the petition be for a new road it shall set forth the points where it is to terminate.

Sec. 5. The petitioners shall deposit with the probate clerk of the county in which any road is sought to be altered, widened, changed or laid out and established, a sufficient sum of money, which shall be fixed by the board of county commissioners, to defray the expense of viewing the proposed road, which sum shall be paid into the county road fund in case the prayer of the petitioner is refused, but if the board of county commissioners alter, widen, change or lay out such road, then such sum shall be returned to the person or persons depositing the same. The petitioners in lieu of such deposit may file with the probate clerk aforesaid, a good and sufficient bond conditioned for the payment of the expenses of viewing such road should the prayer of the petitioners be refused.

Sec. 6. If any proposed highway be on the county line between two counties, the board of county commissioners of each county interested shall be petitioned, and each of such boards shall appoint three viewers, qualified as in other cases, who, or a majority of whom, shall meet at a time and place named by the board of county commissioners first interested and proceed to view and mark out the road, and report to the board of county commissioners of both counties, as in other cases, and the concurrence of the county commissioners of both such counties shall be necessary to establish it. And, if any such road be established, each of such counties shall open and maintain a definite part thereof, which the board of county com-

missioners of such counties shall apportion by mutual agreement between the two counties, and if the board of county commissioners cannot agree upon their apportionment, they may refer the matter to three disinterested free-holders as arbitrators, whose duty it shall be to apportion the same and report thereon to the boards of county commissioners of both counties.

Sec. 7. It shall be the duty of the board of county commissioners of any county in the territory at their next meeting, after a petition as required in section 4, of this act is received, to appoint a board of commissioners of three free-holders of the county to view and mark out the road prayed for in the petition, and to fix a time for such view, and to cause notices to be posted in three of the most public places, along the new proposed road, at least five days previous to the day fixed for the view thereof, giving parties in interest notice that at the time fixed by the board of county commissioners the viewers so appointed will meet at the point designated in the petition as the starting point of such road, to attend to their duties as reviewers.

Sec. 8. The probate clerk shall issue a warrant directed to the viewers appointed, setting forth their appointment, and requiring them to meet at the time and place named by the board of county commissioners, and to proceed to view and mark out such road, and to assess the damages and benefits accruing to the owner or owners of any of the lands over which the same may pass, by reason of the alteration, changing, widening or location thereof, and the proper cost of opening such road for travel.

Sec. 9. The sheriff of the proper county shall serve the warrant mentioned in the preceding section by delivering a copy to each of the viewers named therein, and the original shall be returned to the county clerk with his endorsement of service made thereon. Any person appointed road viewer and duly served with a warrant, who shall wilfully neglect or refuse to act, shall forfeit the sum of twenty-five dollars (\$25.00) to the county.

Sec. 10. The viewers appointed and served with warrant as herein provided, shall meet at the time and place specified in the warrant, and commence at the place designated in said petition, as the starting point of the road sought to be altered, widened, changed or laid out and established, the said viewers shall proceed to view and mark out the same by setting stakes, blazing trees, turning a furrow or other appropriate monuments to the terminus named in the petition by the most practicable and convenient route that they in their judgment can find. They shall assess the benefits and damages accruing to

If persons by reason of the alteration, widening, changing or laying out of such road, and award to any person damages in excess of the benefits accruing to him or them a sum equal to such excess. And if the viewers or a majority of them, be of the opinion that the road should be altered, widened, changed or laid out and established, they shall cause a survey and plat of the same to be made by the county surveyor, or other competent person, giving the courses and distances and specifying the land over which the road extends.

Sec. 11. If any viewer duly appointed and served with warrant refuses to act or is disqualified or does not appear, the other two viewers may fill such vacancy, or if but one of the viewers appears who is qualified and consents to act, he shall appoint two others who shall be free-holders to assist him and they shall proceed to view such road.

Sec. 12. The viewers shall file a report of the view in the office of the probate clerk and recorder of the county in which such view was made, ten days before the next regular meeting of the board of county commissioners held after the same is completed, which shall be signed by a majority of the viewers and shall contain a full statement of their proceedings, a description of the land over which such road extends, an estimate of the cost of opening it for travel, an assessment of the damages and benefits accruing to any person or persons by reason of the alteration, widening, changing or laying out of such road, and the sum awarded any person or persons for damages in excess of the benefits assessed to him or them, and if such road be practicable, and the establishment of it be recommended by them. To this report the viewers shall annex the plat, survey and report of the surveyor. For their services the viewers shall receive a warrant on the county treasurer for a sum to be fixed by the county commissioners, not exceeding five dollars per day.

Sec. 13. The board of county commissioners at their next annual meeting, after the report of such report, shall proceed to consider the same and all objections that there may be made thereto, and they shall determine whether or not such road shall be established and open for travel. And they may refer the matter of viewing to the same or other viewers with instructions to report in like manner, as herein provided, or specially upon some particular matter.

Sec. 14. If the board of county commissioners determine to open any such road, they shall cause the full and final report of

the viewers including the plat and report of the surveyor to be recorded in the office of the probate clerk and recorder, in a book kept for that purpose.

Sec. 15. The board of county commissioners having considered the report of any road review, and the compensation to which any person or persons damaged having been ascertained and paid to the owner or owners or into court for him or them, may order the road to be open for travel and declared a public highway. And if they do so, or order, they shall cause notices to be posted at three public places along the line of such road, giving all parties notice that they have or will direct their proper officers to open and work the same from and after sixty days from the date of such notice: *Provided*, No such road shall be ordered opened through fields of growing crops or along a line where growing crops would thereby be exposed to stock until the owner or owners of such crops shall have sufficient time to harvest and take care of the same.

Sec. 16. If the damages assessed to any person or persons by reason of the alteration, widening, changing or laying out of any road, shall exceed the benefits, the excess shall be paid to such person or persons by warrant on the county treasurer for the amount. If any person or persons to whom damages are awarded, be under disability or cannot be found, the same shall be set apart to such person or persons in the county treasury.

Sec. 17. If any person or persons be of the opinion that the damages awarded him or them by the viewers are inadequate and insufficient, the board of county commissioners may agree with such person or persons upon the measure of the same, and should they fail to so agree such person or persons may appeal from the decision of the viewers to the district court of the county and evidence shall be taken before the court or a referee as in other cases and the court shall determine the amount of damages and render judgment accordingly.

Sec. 18. All public highways hereafter laid out in this territory shall be sixty feet in width unless otherwise ordered by the board of county commissioners.

Sec. 19. Whenever a petition shall be presented to the board of county commissioners of any county of this territory praying for a public highway, and the names of all the owners of all the land through which said road is to be laid out, shall be signed by the owners thereof to said petition, giving the right of way through the land, and accompanied by a plat of the road, it shall be the duty of the board of county commissioners,

if in their opinion, the public good requires it, to declare the **same** a public highway, and thereupon a plat shall be filed and **recorded** and the said road shall become a public highway from **and** after that date.

Sec. 20. The matter of laying out any private wagon road from the dwelling of any person to any public road and of **condemning** the lands necessary therefor, shall be the same as **hereinbefore** provided, excepting that the viewers of the same shall **only** receive compensation for one day's service, and mileage to **and** from their respective residence; and the petition in such cases need only be signed by such person, and the expense of viewing and surveying such road and the damages that may accrue, to any person by reason of laying out the same, and the expense of opening such road shall be paid by such petitioner.

Sec. 21. When any highway is to be altered, widened, **changed** or laid out, the probate clerk shall notify the overseer of the proper district, and for such notice the clerk shall receive fifty cents from the county treasury.

Sec. 22. When any public road heretofore laid out or traveled as such or hereafter to be laid out or traveled, crosses any creek or stream of water, and such stream during any part of the year is usually fordable where such road passes the same, the said ford and the banks of the stream adjacent thereto, and the roadway or tract usually traveled leading thereto from such highway, shall be deemed and be taken to be part of such highway, and any person who shall obstruct such ford, or the road leading thereto, or shall dig down the banks of such ford, or who shall erect any dam, or any embankment or other obstruction in such stream, or wing-dam or other obstruction on the banks of such stream, for the purposes of raising the water of such stream upon the said ford, so as to render the said ford impassable, or more difficult of passage than heretofore, or who shall maintain any such dam, wing-dam, embankment or obstruction heretofore erected, after being by the road overseer of the district notified to remove or abate the same, shall be liable to the same penalties hereinafter prescribed for obstructing the public highway, and no person or corporation upon any pretense or authority, shall be permitted to erect a toll bridge over any stream at or upon a public ford, or road crossing, or so near thereto, as by the abutments, embankments, or piers of such bridge, to obstruct, or render impassable the said ford, or roadway leading thereto.

Sec. 23. When any bridge is to be built, the estimated cost of which will exceed three hundred (\$300.00) dollars, the work

shall be let out by contract, and the board of county commissioners shall advertise for sealed proposals for performing the work in some newspaper, published in the county where such bridge is to be built for a period of not less than three weeks: *Provided*, That if there is no newspaper published in the county where such bridge is to be built, the board of county commissioners shall cause to be posted up in five of the most public places in said counties such advertisement, same to be posted up at least ten days before such contract be let. Such advertisement shall describe the bridge to be built, its location, and shall refer all persons to the person or persons holding the plans and specifications therefor, and such contract so to be let shall be awarded to the lowest responsible bidder, to be paid for out of the road funds or general fund, as the county commissioners may determine.

Sec. 24. The board of county commissioners shall divide their counties into suitable road districts as in their judgment will best subserve the interests of the people of the whole county. In each district so formed there shall be appointed annually by the county commissioners, a road overseer of such district, who shall hold his office for a period of one year or until his successor is duly qualified, who shall file with the probate clerk a sufficient bond approved by the board of county commissioners for the faithful performance of his duties as such road overseer, and secure payment of any money that he may receive under the provisions of this act.

Sec. 25. The board of county commissioners of the respective counties of the territory may levy a proper tax for road purposes which shall not exceed three mills on the dollar to be levied and collected in the same manner and at the same time as other property taxes are levied and collected in each year. The commissioners shall apportion the funds so collected, among the several road districts of the county, and the same shall be paid out only by the order of the board of county commissioners, but all property included within the limits of incorporated towns and cities shall not be subject to such tax.

Sec. 26. Every able-bodied man between the ages of twenty-one and sixty years shall annually pay to the road overseer of the district wherein he resides, a road tax of three dollars, or in lieu of such sum shall labor on the public roads three days, whenever notified by the overseer as hereinafter provided, but the provisions of this act shall not apply to persons residing within the corporate limits of incorporated cities and towns.

Sec. 27. The road overseers shall keep the county roads and

highways of their respective districts in repair and in good condition for travel. The road overseers shall notify all persons in their districts subject to road tax between the first day of April and the first day of September in each year, to appear at such time and place and with such tools as he may designate to perform the work required in lieu of road tax: *Provided*, Nothing in this section shall prevent the overseer from calling out any such persons to perform such work at any time when he shall consider the same needed.

Sec. 28. Any person subject to road tax, who, after due notice has been given, refuses the same or to perform the work in lieu thereof, for a period of ten days after being so notified, according to the provisions of the preceding section, shall be considered delinquent, and it shall be the duty of the road overseer to immediately make a list of such delinquents in his district and every such delinquent shown on the said list shall be subject to the payment of such tax, which taxes shall be recovered in a separate action for each delinquent in any court of competent jurisdiction, and such penalty and taxes, or any part thereof, collected upon any such judgment shall be paid into the county treasury, to be paid out on such road where the tax was assessed and the delinquent lives, and the county treasurer shall keep a record of all such sums of money so coming into his hands.

Sec. 29. All persons, corporations or companies, are hereby required on application by the road overseer or his deputy, to furnish to said road overseer with the names of his, her or their employes, when they are employing ten or more persons, who are or may be liable to the payment of road taxes under the provisions of this act, and in the event of their refusal so to do within ten days after being so requested, shall forfeit the sum of one hundred dollars for each refusal so to do, and such sum shall be recovered in the same way as any penalty is collected; such money when collected shall be paid into a special fund and paid in the same manner as other moneys paid in for taxes.

Sec. 30. If any road tax be unpaid and delinquent the road overseer of the district wherein the same is due and payable, may serve on any debtor of the person from whom such tax is due, a notice, printed or in writing, or partly printed or partly written, that such road tax has been demanded and is unpaid, and requiring such debtor of the person delinquent to pay to such road overseer the full amount of such road tax, with fifty cents additional thereto for costs of such notice; and every such

notice may require such debtor to appear before some justice of the peace of the county at a date and hour named therein, to answer said road overseer as the garnishee of such delinquent tax-payer.

Sec. 31. The service of such notice shall have the same effect as the service of a garnishee process, and upon the service thereof, the person upon whom the same is served, shall be authorized to pay to the road overseer the amount of tax assessed said delinquent, together with fifty cents in addition thereto, and such payment shall to the extent thereof bar any further liability therefor to such delinquent tax-payer.

Sec. 32. If any such debtor upon whom service of any such notice is made, shall fail or refuse to pay the road overseer serving the same, the amount of such tax, with the fee of fifty cents for serving such notice as provided by the two preceding sections, he shall be liable for all costs thereafter accruing in said proceedings of garnishment. Every road overseer, for the service of such notice shall be entitled to receive fifty cents.

Sec. 33. If any person required by this act to pay a road tax neglect to make such payment, or perform the labor in lieu thereof, and the road overseer is unable or neglects to collect the same prior to the first day of November in any year, it shall be the duty of the overseer of roads to report such delinquency to the county treasurer of the county, who is hereby authorized and required to collect the amount of such delinquency from the delinquent in the same manner as other taxes are collected, and to pay the same over to the overseer of roads of the road district in which the same are due and payable.

Sec. 34. The road overseers shall report to the board of county commissioners at their regular December meeting of each year, a list of all persons in their districts subject to a road tax, the names of all persons who have performed work in lieu thereof; the amount of money collected and paid out by him, from whom received, to whom and for what it was paid, the number of days he has been in actual service as road overseer, and the list of delinquents.

Sec. 35. Each road overseer shall receive as compensation for his services a sum to be fixed by the board of county commissioners, not exceeding five dollars per day for each day's service rendered as road overseer, to be paid out of the road fund in the county treasury, belonging to the respective districts.

Sec. 36. No person or persons shall erect any fence, house or other structure, or dig pits or holes in or upon any highway

or place thereon any stone, timber, trees or any obstruction whatsoever; and no person or persons shall tear down, burn or otherwise damage any bridge of any highway, or cause waste water or the water from any ditch, road, drain, or flume to flow in or upon any road or highway so as to damage the same.

Sec. 37. No person or persons, corporation or company, shall dam the waters of any stream so as to cause the same to overflow any road, or damage or weaken the abutments, walls or embankments of any bridge or any highway. Any person or persons, corporation or company, violating any of the provisions of this section shall forfeit the sum of fifty dollars to the county as a penalty, and shall be liable to the county and to any person or persons, corporation or company for any damages resulting therefrom.

Sec. 38. Any person or persons, corporation or company, owning or constructing any ditch, raise, drain, flume, in, upon or across any highway shall keep the highway open for safe and convenient travel, by constructing bridges over such ditch, raise, drain, or flume, or by providing other safe and convenient way across or around the said ditch; and within five days after any ditch is constructed across, in or upon any highway, at any point thereof, so as to interfere with or obstruct such highway, the person or persons owning or constructing such ditch shall erect a good and substantial bridge across the same, which shall thereafter be maintained by the county. Any person or persons, corporation or company constructing any ditch, raise, drain, flume, in, upon or across any highway, and failing to keep the highway open for safe and convenient travel, shall forfeit the sum of twenty-five dollars to the county. And any person or persons, corporation or company, who shall fail to erect a good substantial bridge across any ditch, raise, drain, or flume within five days after the same is constructed in, upon or across any highway, shall forfeit the sum of twenty-five dollars to the county, together with the cost of constructing there a good and substantial bridge which the overseer shall at once proceed to build, and shall also be liable in damages to any person or persons damaged by such neglect.

Sec. 39. In order to foster and encourage the use of local materials and labor, hereafter any bridge or culvert constructed upon the provisions of this act in this territory shall be constructed, whenever practicable and more economical, of material produced in this territory, using local labor in its construction.

Sec. 40. All fines, penalties and forfeitures incurred under any provisions of this act, except as otherwise provided, shall

be recoverable by an action of debt in the name of the people of the Territory of New Mexico in any court of competent jurisdiction, and the county treasurer shall set the same apart to the district wherein the same accrued.

Sec. 41. Chapter 40 of the Session Laws of 1901 of the Territory of New Mexico, and all laws and parts of laws in conflict herewith are hereby repealed and this act shall take effect sixty days after its passage and approval; but this act shall not be construed to in any way conflict with council substitute for council bill No. 38, passed by the thirty-sixth legislative assembly of the Territory of New Mexico: Approved February 10, 1905.

CHAPTER 125.

AN ACT AMENDING CHAPTER FIFTY OF THE SESSION LAWS OF 1899 ENTITLED "AN ACT RELATING TO SALES OF COAL OIL AND ITS PRODUCTS." *C. B. No. 152; Approved March 16, 1905.*

CONTENTS.

Sec. 1. Chapter 5, Laws of 1899, relating to sales of coal oil, amended. *Proviso*
—act not to apply to petroleum, coal oil, etc., imported into territory.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Chapter 50 of the Session Laws of 1899 being an act relating to sales of coal oil and its products. council bill 131, approved March 15, 1899, be and the same is hereby amended by adding at the end of section 9 of said act the following proviso:

"Provided, That the provisions of this act shall not apply to petroleum, coal oil, or the products thereof shipped or transported into this territory from any other state or territory, and disposed of in the original package."

Sec. 2. This act shall be in full force from and after its passage.

CHAPTER 126.

AN ACT FIXING THE TIME FOR HOLDING THE TERMS OF THE DISTRICT COURT FOR THE FOURTH JUDICIAL DISTRICT OF THE TERRITORY OF NEW MEXICO. C. B. No. 143; Approved March 16, 1905.

CONTENTS.

- Sec. 1. Terms of court in fourth judicial district, San Miguel, Union, Colfax and Mora counties.
Sec. 2. All writs issued by district court returnable at the times and places designated in section 1.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. The regular terms of the district court for the fourth judicial district of the Territory of New Mexico shall hereafter be held and commenced as follows:

In the County of San Miguel, at the county seat of said county, commencing on the third Monday of May and November of each year.

In the County of Union, at the county seat of said county, commencing on the second Monday of March and the second Monday of September of each year.

In the County of Colfax, at the county seat of said county, commencing on the fourth Monday of March and the fourth Monday of September of each year.

In the County of Mora, at the county seat of said county, commencing on the fourth Monday of April and the fourth Monday of October of each year.

Sec. 2. Every writ, summons, bond, recognizance, subpoena, or other process whatever, which has been issued or taken out from the district court for any county in said district, shall be returnable at the times and places designated in section 1 of this act, and shall have the same force and effect as if the same had been made returnable at the times and places mentioned in said section 1 of this act.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act to take effect from and after July 1, 1905.

CHAPTER 127.

AN ACT TO AMEND THE ELECTION OF LAWS OF THE TERRITORY
OF NEW MEXICO AND FOR OTHER PURPOSES. *C. B. No.*
151; Approved March 16, 1905.

CONTENTS.

- Sec. 1. Unlawful for candidates named by one political convention to be named by another. Provisos.
Sec. 2. Emblem of political parties to be filed with secretary of the territory. Proviso.
Sec. 3. County recorders to provide printed ballots. Form of ballot required.
Sec. 4. Violation of provisions of act, a felony. Penalty.
Sec. 5. Chapter 59, Laws of 1903, regarding the registration and use of emblem, repealed.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

Section 1. That hereafter when any political convention held in this territory or any county thereof, for the purpose of nominating candidates to be voted for at any election held in this territory or any county thereof and the names of the candidate or candidates nominated by such convention, and certified to by the presiding officer of such convention and the secretary thereof, shall have been filed with the probate clerk of the county in which such convention was held, it shall be unlawful for any other political convention, person or persons to print or cause to be printed or circulated, any ticket or ballot having thereon the name or names of the candidate or candidates nominated by such political convention: *Provided*, That nothing in this section shall be construed to prohibit any person from erasing or changing in any manner any name on any such ticket or ballot voted by such person: *And, Further, Provided*, That this act shall not be so construed as to prevent any executive committee of any political party holding such convention from substituting the name or names of any candidate selected by such committee by authority of such convention to fill any vacancy caused by the death, declination or retirement of any candidate nominated by such convention.

Sec. 2. Within thirty days after the taking effect of this act, the chairman of the territorial committee of each political party may file with the secretary of the territory his certificate setting forth and showing, by a representation thereof, his selection of a device or emblem for the political party represented

by him. The device or emblem so chosen and filed shall be used thereafter to designate and distinguish all the candidates of that political party upon all tickets throughout the territory and in all sub-divisions and municipalities thereof: *Provided*, That any territorial convention of said party may change said device or emblem by adopting any other in its stead that is not then in use by any other political party, and by filing with the secretary of the territory a certificate signed by the presiding officer and a secretary of said convention setting forth and showing, by a representation thereof, said newly adopted device or emblem and the action of said convention in reference thereto. No political party shall select any device or emblem or any portion thereof the same as, similar to, or that is liable to be confronted with or mistaken for, the device or emblem then in use by any other political party. If, for any reason, no device or emblem shall be selected for a political party within thirty days from the taking effect of this act as herein provided, then it shall be lawful until a territorial convention of said party shall be held, for the members of such party, in conventions or primary elections held by them to make nominations, to select and use such devices or emblems as they prefer, subject to the provisions of this act but it shall be the duty of the first territorial convention held by such party, and also the duty of the first territorial convention held by any political party hereafter organized, to select and file with the secretary of the territory as hereinbefore provided, a device or emblem for said party, which shall continue to be used, or may be changed as herein provided.

Sec. 3. It shall be the duty of the county recorder of each county to provide printed ballots at the expense of the county for every election for public officers in which the electors or any of the electors within his county participate, and to cause to be printed in the appropriate ballot, the name of every candidate whose name has been certified to or filed with him in the manner provided for in this act, and no person shall accept a nomination to more than one office, nor from more than one political party. Ballots other than those printed by the respective county recorders according to the provisions of this act shall not be cast, counted or canvassed in any election. Every ballot printed under the provisions of this act shall be headed by the name and emblem of the political party by whom the candidates whose names appear on the ballots were nominated, and each of said ballots shall contain only the names of the candidates nominated by said party. Said ballots shall be printed from the same kind of paper and of the same size, and

each ballot shall have printed upon the back thereof an endorsement substantially as follows: "Official ballot, election held (insert date) with a fac-simile signature of the county recorder. The printing and distributing of all ballots mentioned in this act shall be done under the supervision of the chairmen of the county committees of the political parties of the county in which any such election is to be held.

Sec. 4. Any person, violating any of the provisions of this act shall be deemed guilty of a felony, and upon conviction thereof before any court of competent jurisdiction, shall be punished by imprisonment in the territorial penitentiary for not less than one year, and not more than five years, at the discretion of the court trying the cause.

Sec. 5. Chapter 59, Laws of 1903, and all acts and parts of acts in conflict herewith are hereby repealed and this act shall be in force from and after April 1, 1905.

CHAPTER 128.

AN ACT TO PREVENT AND PUNISH FRAUD IN SALES OF MANUFACTURED GOODS, JEWELRY, WARES AND MERCHANDISE BY "ITINERANT VENDORS" AND TO REGULATE SUCH SALES *C. B. No. 77; Approved March 16, 1905,*

CONTENTS.

- Sec. 1. Definition of term "itinerant vendor."
- Sec. 2. To whom and what, act not applicable. Proviso.
- Sec. 3. License required.
- Sec. 4. Application for license. Oath required of applicant.
- Sec. 5. Secretary of territory to issue license. Fee.
- Sec. 6. Files and records of licenses to be kept by secretary of territory.
- Sec. 7. License not transferable. Cancellation of license.
- Sec. 8. Assistants of itinerant vendors.
- Sec. 9. County license. Fees.
- Sec. 10. Application for county license. County clerk to issue county license.
- Sec. 11. County clerk to keep record of all licenses issued.
- Sec. 12. How fees collected under this act to be used.
- Sec. 13. Itinerant vendor to keep license conspicuously posted.
- Sec. 14. When license null and void.
- Sec. 15. Penalty for counterfeiting or forging a license.
- Sec. 16. Penalty for doing business without license, or other violation of act.
- Sec. 17. Delinquency in payment of license fee, subjects vendor to suit.
- Sec. 18. False oath in procuring certificate, perjury. Penalty.
- Sec. 19. Penalty for fraud in sale, by vendor.
- Sec. 20. Fee of secretary of territory for issuance of license.

Sec. 21. Violators of act may be bound over by justice of the peace to the district court.

Sec. 22. Failure to give bond.

Sec. 23. Existing license not affected.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That the term "itinerant vendor," for the purpose of this act shall mean and include any person, either principal or agent, who engages in either a temporary or transient business in this territory, either in one locality or in traveling about the country, or from place to place, selling manufactured goods, jewelry, wares or merchandise, and it shall include peddlers and hawkers, and also those who for the purpose of carrying on their temporary or transient business, hire, lease or occupy a building, structure, tent, car, vehicle, store room or place of any kind, for the exhibition and sale of any manufactured goods, jewelry, wares or merchandise.

Sec. 2. The provisions of this act shall not apply to commercial travelers or agents selling to merchants in the usual course of business, and it shall not apply to the sale of goods, wares, jewelry or merchandise in original packages from other states as permitted by the laws of the United States applicable to interstate commerce between the states: *And, Provided, Further,* That the provisions of this act shall not apply to the sale of books, papers, school supplies or household machinery.

Sec. 3. Except as permitted by the preceding section of this act, it shall be unlawful for any person to be engaged in any manner in the business of an "itinerant vendor" as defined by section 1 of this act, unless such a person shall be duly licensed so to do, under the provisions of this act.

Sec. 4. That the secretary of the Territory of New Mexico shall grant a territorial license to any person making due application therefor, to engage in the business of an "itinerant vendor" who shall first file in the office of the secretary of the territory a written certificate signed by any judge of a court of record in this territory, or by the majority of the members of the board of county commissioners of any county in the territory, stating that to the best knowledge, information, and belief of the judge or commissioners making this certificate the applicant for territorial licenses therein named, is of good repute and morals, and integrity, and that he is or has legally declared his intentions to become a citizen of the United States. Such judge of a court of record or any county commissioners

making any such certificate shall require the applicant to make oath that he, the person named therein, that he then is a citizen of the United States, or that he has declared his intentions to become such citizen; that in the business of an "itinerant vendor" he will comply with the laws of the United States and the laws of the Territory of New Mexico, and that in his business as an "itinerant vendor," he will not commit any fraud, sell any manufactured goods, wares, jewelry or merchandise by any false or short weights or measure, or sell any goods, jewelry, wares or merchandise as being composed or manufactured in whole or in part of material or ingredients from which such manufactured goods, jewelry, wares or merchandise are actually composed or manufactured, and such oath shall be certified in writing, upon the certificate of an officer, duly authorized to administer oaths.

Sec. 5. Upon the said certificates and oath provided for in section 4, of this act, being filed in the office of the secretary of the territory with a written application under oath made by the applicant, stating the names and residence of the owners or parties in whose interest the said business of an "itinerant vendor" is to be conducted, the payment to the secretary of the territory of the license of twenty-five dollars, the secretary of the territory shall issue to the applicant a territorial license authorizing him to do business as an "itinerant vendor" within the Territory of New Mexico for the term of one year from the date of the issue of said territorial license, conditioned upon the licensee therein named, procuring a proper county license for such a county in which he may do any business as an "itinerant vendor" and complying with all the provisions of this act, and all laws of the Territory of New Mexico, which license shall be for not less than one year.

Sec. 6. The secretary of the territory shall keep on file all applications for a territorial license, together with all certificates and oaths in connection therewith, and he shall keep a record of all such licenses issued by him with the number thereof and all the payments, and all other matters in connection with each separate territorial license. All of which files and records shall be kept in convenient form open to public inspection.

Sec. 7. That a territorial license shall not be transferable, and such license may be cancelled and forfeited by order of any court of competent jurisdiction upon proof of the violation of the licensee, or any assistant of the licensee of any of the provisions of this act, or any condition upon which the license is issued.

Sec. 8. A person holding a territorial license as an "itiner-

ant vendor" may have not to exceed two assistants to act with and assist him in conducting his business, but no assistant shall act for or separate from his principal or in a different county from that in which his principal is then personally conducting his business as an "itinerant vendor," and the names of all assistants to an "itinerant vendor," shall be included in the county license under which they may act at the time of its issue.

Sec. 9. Every "itinerant vendor" before making a sale of any manufactured goods, jewelry, wares or merchandise in any county in this territory, shall procure a county license from the county clerk of that county and pay the following named fees therefor, viz:

For each "itinerant vendor" traveling on foot or with one horse, two hundred and fifty dollars per annum;

For each "itinerant vendor" traveling with two horses, three hundred dollars per annum;

For each "itinerant vendor" traveling on a bicycle, one hundred dollars per annum;

For each "itinerant vendor" traveling in any other manner than hereinbefore described, three hundred and fifty dollars;

For each "itinerant vendor" doing business in any building, structure, tent, car, stationary vehicle, storeroom or certain place of any kind, for the exhibition or sale of any manufactured goods, jewelry, wares or merchandise, for each such building, structure, tent, car, stationary vehicle, storeroom or place, two hundred and fifty dollars.

Sec. 10. Application for a county "itinerant vendor's" license shall be made by the applicant by presenting to the county clerk, for inspection, his territorial license, filing with the county clerk a copy thereof, and presenting the receipt of the collector and treasurer of the payment of the proper license fee to the said collector and treasurer as indicated in section 9 of this act, and the fee to the county clerk of fifty cents for such license, whereupon the county clerk shall issue to the applicant a county license authorizing him to do business as an "itinerant vendor" in that county for one year from the date of the issuing of such county license in the particular manner described in such license, conditioned upon the licensee holding during all such time as unexpired and uncanceled territorial license, and such county license shall be numbered and name the persons authorized to act thereunder, not exceeding one principal and two assistants and a county license shall not be transferable.

Sec. 11. Each county clerk shall keep on file all papers filed

with him in connection with each county license, issued by him, and he shall keep a record of all such licenses with the numbers, and of all license fees paid and of the name and residences of each person and assistant acting under each county license issued by him, and all such files and records shall be open for the public inspection.

Sec. 12. All fees paid to the secretary of the territory for license granted under the provisions of this act shall be for the use of the territory, and all fees paid to the treasurer and collector of counties for county licenses, granted under the provisions of this act, shall be one-half for the use of the county in which the license is issued, and the other half for the use of the general school fund of the county in which said license is issued.

Sec. 13. Every person licensed as aforesaid, as an "itinerant vendor" shall post his name, residence and the number of his county license in a conspicuous manner upon his parcels or vehicle, or in a prominent place in his place of business, and when his county license is demanded of him by any county officer, magistrate, sheriff, deputy sheriff, constable or peace officer, he shall forthwith exhibit it, and if he neglects so to do, he shall be subject to the same penalty as if he had no license.

Sec. 14. The territorial license and all county licenses of any person who may be convicted of the violation of any of the provisions of this act, shall from the date of such conviction, be null and void.

Sec. 15. Whoever counterfeits or forges a license, or has a counterfeited or forged license in his possession, with intent to utter or use the same as true, knowing it to be false and counterfeit, shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than ten days nor more than one year, or by both such fine and imprisonment.

Sec. 16. Every "itinerant vendor" who sells or exposes for sale either at public or private sale, in any county in this territory any manufactured goods, wares, jewelry or merchandise, without having first procured a territorial license, and the license from the county in which he sells or exposes for sale such manufactured goods, jewelry, wares or merchandise, as provided for in this act, or files an application, original or supplementary, either with the secretary of the territory or with the county clerk of any county, which contains any false statement, or being licensed according to the terms of this act fails to comply with all the requirements of this act, and every per-

son, both principal or agent, who by circular, handbill, newspaper, or in any manner whatsoever, advertises any such unlicensed sale, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than ten days nor more than one year, or both by such fine and imprisonment, besides the costs of the prosecution of the case.

Sec. 17. If any person who is liable for the payment of any license fee, under the provisions of this act, shall, after a demand being made upon him by the county clerk of the county in which such license is reported, or by a sheriff, or deputy sheriff of that county, refuses or neglects to pay to the treasurer and collector of said county, the fee provided for in this act, the district attorney of the district in which said liability occurs, may begin and maintain against the delinquent "itinerant vendor" an action at law for the recovery of such license fee, and for the purpose of procuring any judgment which he may recover in such action. The district attorney may have the said goods, wares, jewelry or merchandise of such "itinerant vendor" attached and held in like manner, as is provided for in cases of attachment.

Sec. 18. If any person shall make any false or untrue oath for the purpose of procuring from any judge, or county commissioner, any certificate, as provided for in section 1 of this act, he shall be held guilty of perjury, and on conviction thereof in a court of competent jurisdiction, he shall be punished as is or may be provided by law for the punishment of perjury permitted (committed) in court on the trial of a cause.

Sec. 19. If any licensed "itinerant vendor" or any assistants of any licensed "vendor" shall commit any fraud in the sale of any manufactured goods, jewelry, wares or merchandise, by any false or short weight, or measure, or by deceit or sell any manufactured goods, jewelry, wares or merchandise, as being composed or manufactured in whole or in part of material or ingredients different from which such manufactured goods, jewelry, wares or merchandise are actually composed or manufactured of, he shall be punished by a fine of not less than twenty dollars nor more than five hundred dollars, or by imprisonment in the county jail of not less than thirty days nor more than one year, or by both such fine and imprisonment.

Sec. 20. That the secretary of the territory shall be entitled to the sum of two dollars' fee for each and every license certificate issued by him.

Sec. 21. That upon complaint made to any justice of the peace in any of the counties of this territory of any violations of the provisions of this act, the said justice of the peace, shall sit as a committee (committing) magistrate, and if he finds upon examination, that the provisions of this act, have been violated he shall bind the offender or offenders to appear before the district court of the district in which such violation has occurred in a sufficient sum to be fixed by him.

Sec. 22. Upon the failure of any "itinerant vendor" or his agent to give the bond required by such justice of the peace, he shall be remanded to jail until such a time that the required bond be given or be otherwise discharged by due course of law.

Sec. 23. That nothing in this act shall be construed against any license issued to any "itinerant vendor" or peddler prior to the passage of this act, but all such license now in force shall be allowed to continue to the end of the period for which such license is issued.

Sec. 24. That all acts or parts of acts in conflict herewith, are hereby repealed, and this act shall be in force and effect, sixty days after its passage and approval.

CHAPTER 129.

AN ACT TO PRESCRIBE THE MANNER OF DESCRIBING MONEY IN INDICTMENTS. A. C. B No. 36; Approved March 16, 1905

CONTENTS.

Sec. 1. Manner of describing money in indictments.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

Section 1. In every indictment in which it shall be necessary to make an averment as to any money or any note, being or purporting to be made or issued by any bank incorporated by law, or made or issued by virtue of any law of the United States, and intended to circulate as money, it shall be sufficient to describe such money or note simply as money, without specifying any particular coin or note; and such allegation shall be sustained by proof of any amount of coin, or of any such note, although the particular species of coin of which such amount was composed, or the particular nature of such note, shall not be proved.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in full force and effect from and after its passage.

CHAPTER 130.

AN ACT REPEALING CERTAIN PROVISIONS OF COUNCIL BILL NO. 60, APPROVED MARCH 16, 1901. *H. B. No. 201; Approved March 16, 1905.*

CONTENTS.

Sec. 1. Section 2, Chapter 28, Laws of 1901, regarding penalties for those allowing animals to trespass upon private lands and water rights.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 2 of council bill No. 60, approved March 16, 1901, of Chapter 28 of the Session Laws of 1901, is hereby repealed.

Sec. 2. This act shall be in full force and effect from and after its passage.

CHAPTER 131.

AN ACT TO AMEND SECTION 6, OF CHAPTER 81, OF THE ACTS OF THE 34TH LEGISLATIVE ASSEMBLY, ENTITLED "AN ACT TO PROVIDE A METHOD OF PROCEDURE IN THE ADMINISTRATION OF ESTATES OF DECEASED PERSONS, TO DEFINE THE DUTIES OF ADMINISTRATORS AND EXECUTORS, (AND PROVIDING A METHOD OF APPEAL FROM PROBATE COURTS TO DISTRICT COURTS,) AND FOR OTHER PURPOSES," APPROVED MARCH 21, 1901. *C. B. No. 106; Approved March 16, 1905.*

CONTENTS.

Sec. 1. Section 6, Chapter 81, Laws of 1901, regarding the failure of executors or administrators to protect estates, amended. When suit may be instituted by others than executors or administrators.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That so much of section 6 of said act as reads as follows:

“And in event any executor or administrator shall fail or refuse to institute any action at law or suit for the benefit of the estate which he represents, or for the benefit of any person or persons claiming to be interested therein, or shall fail or refuse to defend any suit or action affecting such estate or the rights of any persons interested therein, the person or persons interested in such estate or whose rights may be affected by the failure of such executor or administrator either to institute or defend any such action, may apply to the judge of the district court for the appointment of a guardian *ad litem* whose duties shall in such cases be, to prosecute or defend the action mentioned in the application for the appointment of such guardian *ad litem* for the benefit of such estate or the persons interested therein, or either or both, as the case may be;” be and the same is amended so as to read as follows:

In the event any executor or administrator shall fail or refuse to institute any action at law or suit for the benefit of the estate which he represents, or for the benefit of any person or persons claiming to be interested therein, or shall fail or refuse to defend any suit or action affecting such estate or the rights of any person interested therein, the person or persons interested in such estate or whose rights may be affected by the failure of such executor or administrator, either to institute or defend any such action, or in the case of the absence from the territory of any such executor or administrator, and when an application has been made to the court for his removal for said reason or any other reason, any heir, legatee, creditor or other person interested in the said estate, may apply to the district court for an order allowing him or them to institute or defend any such suit in the name of such executor or administrator pending an application for the removal of such executor or administrator, and said court may order such executor or administrator to allow the use of his name in the prosecution or defense of such suit, whether an application for his removal is pending or not, in any case in which he is absent from the territory or refuses to institute or defend such suit. The court may, if it sees fit, require a bond of such applicant for the use of such name, to pay all costs that may be adjudged against the plaintiff or defendant in said suit in which he seeks to use the name of such executor or administrator.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed; and this act shall be in force and take effect from and after its passage.

CHAPTER 132.

AN ACT FIXING THE TIMES OF HOLDING DISTRICT COURTS IN BERNALILLO AND OTHER COUNTIES. C. B. No. 144; *Approved March 16, 1905.*

CONTENTS.

Sec. 1. Terms of district court in Bernalillo, Valencia, Sandoval, McKinley and Torrance counties.

Sec. 2. All writs issued by district court returnable at the times and places designated in section 1.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. Terms of the district court shall be held in the County of Bernalillo beginning on the third Mondays in March and September of each year; in the County of Valencia on the first Mondays in March and September of each year; in the County of Sandoval on the first Mondays in May and November of each year; in the County of McKinley on the third Mondays in May and November of each year, and in the County of Torrance on the first Mondays in June and December of each year.

Sec. 2. Every writ, summons, bond, recognizance, subpoena, of other process of any of the district courts of the counties mentioned in the preceding section which by its terms is returnable to any different time than those mentioned in said section, are hereby made returnable at the time designated in said first section hereof.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed and this act shall be in force and effect from and after its passage.

CHAPTER 133.

AN ACT TO AMEND SECTION 3299, OF THE COMPILED LAWS OF NEW MEXICO, OF 1897, RELATIVE TO GARNISHMENTS. A. C. B. No. 103; *Approved March 16, 1905.*

CONTENTS.

Sec. 1. Section 3299, Compiled Laws of 1897, regarding suits against garnishees, amended. Costs in garnishment proceedings.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That Section 3299 of the Compiled Laws of New Mexico of 1897, be and the same hereby is amended so as to

read as follows: Section 3299. The suit instituted against such garnishee shall be continued without trial or decision until the action against such defendant in attachment shall be determined; and if in such action nothing shall be found due from the defendant to the plaintiff, then the garnishee shall recover costs and expenses against the plaintiff; or if, in such suit so instituted against the garnishee, the plaintiff shall be non-suited, his suit discontinued, or judgment be had against him, the said garnishee shall recover costs and expenses; and if the plaintiff shall recover judgment against the defendant in such attachment, and the garnishee shall deliver up to the officer before judgment is had against him, all the goods, chattels and other property of such defendant in his possession, and shall also pay over to the said justice all moneys due from him to the said defendant, then the costs and expenses which shall have accrued on such suit against the garnishee shall be paid out of the proceeds of the property attached, belonging to the defendant; but if the garnishee shall not appear, or if appearing, shall refuse truly to confess the matter alleged, and the plaintiff, on trial, shall recover judgment, the said garnishee shall pay the costs and three (\$3.00) dollars attorney's fee.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after sixty days after its passage.

CHAPTER 134.

AN ACT IN REFERENCE TO PROPERTY SOLD FOR TAXES. C.

B. No. 145; Approved March 16, 1905.

CONTENTS.

Sec. 1. Tax collector to sell certificate of sale.

Sec. 2. Fees.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. In case any property shall be bid in by any county as provided for in section 22 of the act embraced in chapter 22 of the laws approved March 1, 1899, the duplicate certificate of such sale shall be sold by the tax collector to any person who shall pay the face value thereof with accrued interest and if the same cannot be sold at private sale within three years from

the date of such certificate, such certificate shall be sold at public auction to the highest bidder for cash by the collector in office at the time of said sale after said collector shall have posted a notice giving a statement of the proposed sale, said notice to be posted on the front door of the court house for not less than four weeks prior to said sale.

Sec. 2. No fees under this act shall be paid to the assessor, collector or district attorney until the money shall be realized by the sale of the certificate or certificates in question.

Sec. 3. This act shall be in force and effect from and after the date of its passage.

JOINT RESOLUTIONS

JOINT RESOLUTION 1.

Be it enacted by the Thirty-sixth Legislative Assembly of the Territory of New Mexico: C. J. R. No. v; Approved January 19, 1905.

That there is hereby appropriated out of any moneys in the Territorial Treasury for the payment of the contingent expenses of said legislative assembly, during the (60) sixty days thereof, the sum of twelve thousand (\$12,000.00) dollars, or so much thereof as may be necessary, six thousand (\$6,000.00) dollars of which shall be expended under the direction of the chairman of the finance committee of the house of representatives, and six thousand (\$6,000.00) dollars under the direction of the chairman of the finance committee of the legislative council, who shall respectively cause to be kept an accurate and true account of all disbursements made hereunder, and shall cause to be made a certified report to the president of the council and speaker of the house of representatives of all such disbursements so made, and the receipts therefor; and the treasurer of the territory is hereby directed to pay out of any moneys in the treasury such sums so stated to the order of the said chairman of the finance committee of the house of representatives and to the chairman of the finance committee of the legislative council, upon presentation of a certified copy of this resolution.

JOINT RESOLUTION 2.

TO SUPPLY MEMBERS OF COUNCIL AND HOUSE OF REPRESENTATIVES WITH THE COMPILED LAWS OF 1897 IN SPANISH AND ENGLISH, C. J. R. No. 2; Approved January 24, 1905

Be it resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico:

That the librarian of the territory be and he is hereby directed and authorized to supply each member of the legislative assembly with a copy of the Compiled Laws of New Mexico of 1897, in Spanish and English and that he take credit for the same.

JOINT RESOLUTION 3.

TO SUPPLY MEMBERS OF COUNCIL AND HOUSE OF REPRESENTATIVES WITH LAWS OF 1899 AND 1901 AND 1903. C. J. R. No. 3; Approved January 24, 1905.

Be it resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico:

That the secretary of the territory be and he is hereby directed and authorized to supply each member of the legislative assembly with a copy of the Session Laws of 1899 and 1901 and 1903 and that he take credit for the same.

JOINT RESOLUTION 4.

A REWARD FOR ARREST AND CONVICTION OF THE PERSONS WHO ASSASSINATED COL. J. FRANCISCO CHAVES, AND FOR THE ACCOMPLICES IN SAID ASSASSINATION. C. J. R. No. 4; Approved January 24, 1905.

Whereas, on the night of November 26th, 1904, Col. J. Francisco Chaves, territorial superintendent of public instruction, and a member elect of the present legislative council, was most foully and cruelly assassinated by unknown parties at Pinos Wells in Torrance county, in the Territory of New Mexico; and

Whereas, it is the sense of this legislative council that the perpetrators of this outrage shall be speedily discovered and punished; now therefore,

Be it resolved by the Council of the Thirty-sixth Legislative Assembly, the House of Representative concurring therein:

That the governor of this territory be, and he is hereby requested to offer a reward of two thousand five hundred (\$2,500.00) dollars for the capture and conviction of the guilty parties; and be it further

Resolved, That upon the certificate of the governor, the auditor is instructed to issue his warrant upon the territorial treasurer for said amount, to be paid out of any funds in the treasury, until a special appropriation is made for such purpose.

JOINT RESOLUTION 5.

TO SECURE PUBLICITY THROUGH THE PUBLIC PRESS OF THE PROCEEDINGS OF THE 36TH LEGISLATIVE ASSEMBLY. H. J. R. No. 2; Approved February 9, 1905.

Be it Resolved by the Legislative Assembly of the Territory of New Mexico:

That the secretary of the Territory of New Mexico be and he hereby is directed to mail to each newspaper printed and published in the Territory of New Mexico a copy of each bill and resolution introduced and printed in either branch of this legislative assembly as speedily as practicable after receiving the same from the public printer, and that the cost thereof be reported by the secretary at the end of the present session of this legislative assembly and an appropriation be made to cover the same.

JOINT RESOLUTION 6.

JOINT RESOLUTION THANKING THE SENATE OF THE STATE OF COLORADO FOR THE PASSAGE OF RESOLUTIONS BY SAID BODY FAVORING SEPARATE STATEHOOD FOR NEW MEXICO AND ARIZONA. C. J. R. No. 6; Approved February 22, 1905

Whereas, the senate of the state of Colorado in session on the sixth day of the present month, February, A. D., 1905, adopted a series of resolutions requesting the senators and representatives of that state in congress to use their utmost endeavors to prevent the passage of bill in congress providing for the admission of New Mexico and Arizona as a single state, as being an unwarranted hardship upon and an unjust discrimination against the people of said territories, and also requesting them to secure if possible the passage of a bill admitting each of said territories as a sovereign state of this Union; and

Whereas, such action of said senate is in accordance with the wishes of the people of New Mexico; therefore be it

Resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico

That the sincere thanks of the legislative assembly of the Territory of New Mexico and the people of this territory be

and the same are hereby extended to the senate of the state of Colorado for the passage of said resolutions, and the interest they have thereby manifested in the welfare of New Mexico and her people.

That a certified copy of this resolution be forwarded by the secretary of the territory to the president of the senate of the state of Colorado.

JOINT RESOLUTION 7.

AUTHORIZING JOINT COMMITTEES TO INSPECT AND REPORT UPON AFFAIRS OF TERRITORIAL OFFICES AND TERRITORIAL INSTITUTIONS. C. S. to A. H. S. for H. J. R. No. 4; Approved February 22, 1905.

Be it resolved by the Council of the 36th Legislative Assembly of the Territory of New Mexico, the House of Representatives concurring herein:

That the president of the council shall appoint three committees of the council and the speaker of the house of representatives, shall in a like manner, appoint three committees of the house; the members as to membership of said committees to be designated by the president of the council and the speaker of the house of representatives respectively, to act as joint committees for the purpose of inquiring into and inspecting and reporting to the governor of the territory, at the most convenient time during this session, the condition, management, prosperity and needs of the various territorial institutions.

That the chairman of the finance committee of the council and the chairman of the finance committee of the house of representatives are hereby designated as an auditing committee to examine and audit the expense accounts of said committees and all accounts for printing and contingent expenses of said legislative council and house of representatives, and shall certify to the correctness of same, setting forth the amounts due to the territorial auditor, who shall upon presentation of same draw his warrants for such amounts so set forth upon the territorial treasurer, who shall pay same out of any funds in the territorial treasury.

JOINT RESOLUTION 8.

PROTESTING TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AGAINST THE ESTABLISHING OF A LEPROSY COLONY IN THE TERRITORY OF NEW MEXICO. C. J. R. No. 7; Approved February 24, 1905.

Be it resolved by the Council of the 6th Legislative Assembly of New Mexico, the House concurring:

That Whereas, we have heard with astonishment and horror that the United States senate has passed a bill authorizing the establishment of a leprosy colony in one of the territories, and we have heard with dismay that an abandoned military post or forest reserve in New Mexico is intended to be selected for the establishment of such a colony; therefore be it

Resolved, That we as representatives of the people of the Territory of New Mexico, object, protest against and deprecate such action on the part of the senate of the United States and ask the members of the house of representatives where the bill is now pending to oppose it and defeat it, for we consider it an insult that our fair and healthy commonwealth should be chosen by congress as the abiding place for such unfortunates, with all its attendant evils and miserable repute that such an establishment would entail upon our prosperous and growing territory, and

Be it Further Resolved, That we ask the assistance of the honorable speaker of the house and its members to keep from us this bitter cup, following after being denied our just rights to be admitted as a state of the Union, and

Be it Further Resolved, That upon the passage of this resolution the president of the council be authorized to telegraph the same immediately to the Hon. Joseph G. Cannon, the speaker of the house of representatives of the United States with the request that the same be placed before the house.

JOINT RESOLUTION 9.

PROVIDING FOR THE DISTRIBUTION OF THE STATUTES OF NEW MEXICO TO PUBLIC OFFICIALS, AND OTHERS. C. J. R. No. 5. Approved March 3, 1905.

Be it resolved by the Council of the 6th Legislative Assembly of the Territory of New Mexico, the House concurring therein:

That the territorial librarian and the secretary of the terri-

tory be and they are hereby authorized and directed to furnish one copy each of the Compiled Laws of 1897 and the reprint of the Session Laws of 1899 and 1901, respectively, to all public law libraries, federal officials at Washington, territorial officials and to the officials of all new counties created since January 1, 1903, and to take proper credit for the volumes so furnished: *Provided*, That the volumes herein indicated shall not be furnished to officials who have heretofore receive the same: *And, Provided, Further*, That each application for such volumes shall be made in writing, the application to be used as a receipt.

JOINT RESOLUTION 10.

AUTHORIZING THE PRINTING OF BILLS AND OTHER DOCUMENTS. *C. J. R. No. 8; Approved March 10, 1905.*

Be it Resolved by the Legislative Assembly of the Territory of New Mexico:

That there shall be printed such bills, documents, rules, reports and the message of the governor of New Mexico, to this assembly, as may be ordered by either house of this assembly, or by the presiding officers of either house, except that not more than five hundred copies of the message of the governor to this assembly be printed.

That all translations shall be done under the direction of the chairman of the finance committees of the two houses.

That the five hundred copies of the message of the governor shall be distributed by the secretary of the territory to such persons whose names may be furnished to said secretary by the members of this assembly or other persons desiring such copies.

JOINT RESOLUTION 11.

MAKING AN APPROPRIATION FOR PAY OF OFFICERS AND CLERKS FOR TEN DAYS AFTER ADJOURNMENT OF THE LEGISLATURE
C. J. R. No. 8; Approved March 10, 1905.

of the Territory of New Mexico, the House of Representatives concurring therein:

First. That there be and is hereby appropriated the sum of five hundred (\$500.00) dollars to meet and pay the wages of the president of the council and the chief clerk, and additional

clerks to be selected by the president of the council at five (\$5.00) dollars per day, for ten days after the adjournment of the legislature; and the further sum of five hundred (\$500.00) dollars to meet and pay the wages of the speaker of the house and chief clerk, and additional clerks to be selected by the speaker of the house at five (\$5.00) dollars for ten days after adjournment of the legislature.

And be it Further Resolved, That on presentation of this resolution to the auditor of the Territory of New Mexico, the said auditor shall draw his warrant upon the territorial treasurer in favor of the president of the council, John S. Clark, and the speaker of the house, Carl A. Dalies, for the sum of five hundred (\$500.00) dollars each, respectively, and the territorial treasurer is hereby ordered and directed to pay the same out of any funds in the treasury, except the interest funds, at the time of the presentation of said warrant.

JOINT RESOLUTION 12.

PROVIDING FOR ADDITIONAL PAY FOR THE REGULAR CAPITOL EMPLOYEES. H. J. R. No. 6; Approved March 14, 1905.

Be it Resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico:

That the regular employes of the territorial capitol be and they hereby are placed on the roll of the additional employes of this body, viz: Hilario Trujillo, engineer, fireman, Ricardo Alarid, night watchman, and Jose Amado Martinez, Anselmo Armijo, Vicente Maez, Manuel Alarid and Pedro Martinez, sweepers, to be paid two dollars (\$2.00) per day from the first day of this session and during the duration of the same.

The sum of eight hundred and forty dollars (\$840.00) or so much thereof as may be needed is hereby appropriated out of any funds in the hands of the territorial treasurer, for the payment of said regular employes, not appropriated for the payment of interest on the bonded debt, and the territorial auditor is hereby directed to draw his warrant in behalf of the chairman of the finance committee of this body, who shall pay the same to the said capitol employes at such times as the other employes of this body are paid, and the territorial treasurer is hereby directed to pay the warrant out of any funds in his hands except moneys for the payment of interest on the bonded debt.

JOINT RESOLUTION 13.

PROVIDING FOR THE PURCHASE OF A BUST OF HON. J. FRANCISCO CHAVES, AND AN APPROPRIATION THEREFOR. C. J. R. No. 10; Approved March 14, 1905.

Whereas, the late Hon. J. Francisco Chaves, was an honored member of the legislative council of the Territory of New Mexico, and served as president during several sessions thereof, and

Whereas, J. Francisco Chaves was one of New Mexico's most distinguished citizens, and

Whereas, said J. Francisco Chaves, was connected with the public service of the territory almost since its annexation, now:

Therefore, be it Resolved by the Council of the Thirty-sixth Legislative Assembly of the Territory of New Mexico, the House of Representatives concurring therein:

That the governor is hereby authorized and directed to appoint three suitable persons who shall act as a commission and which said commission is hereby vested with authority to contract for, select and purchase a bust of the late J. Francisco Chaves, which bust shall be of such design and character and workmanship as in the judgment of said commission may seem appropriate and proper. Such bust when completed shall be placed in an appropriate place immediately back of the president's chair in the hall of the legislative council, and for the purposes above mentioned.

There is hereby appropriated the sum of one thousand dollars, or so much thereof as may be necessary, payable out of any funds in the territorial treasury, and the auditor of the territory is hereby directed to draw his warrant upon the territorial treasurer upon vouchers presented duly approved by said commission, not exceeding in the aggregate the appropriation heretofore made.

JOINT RESOLUTION 14.

COMMENDING THE ACTION OF PRESIDENT ROOSEVELT AND HIS CABINET OFFICERS FOR THEIR GOOD WORK IN REGULATING THE TRUSTS. A. H. J. R. No. 4; Approved March 16, 1905

Be it resolved by the House of Representatives of the Thirty-sixth Legislative Assembly, the Council concurring therein:

That Whereas, President Roosevelt and his cabinet officers through the messages and instructions of the president have

been using their utmost efforts in regulating the trusts and combines of capital in the United States, and in protecting the people in their rights.

And Whereas, the attorney general of the United States and department of justice have been directed by the president to make a thorough examination and investigation of the trusts and combines throughout the United States, and compel them to submit to a full and complete compliance with the laws of the government in relation thereto: Now therefore,

Be it Resolved by the Thirty-sixth Legislative Assembly of the Territory of New Mexico:

That we fully and earnestly endorse and sanction the wise and patriotic action and recommendations of President Roosevelt in all that he has done and also his instructions to his cabinet officers and the department of justice, which have brought about full, fair and impartial investigation of trusts and combines of capital and which have brought about the necessary prosecution for violation of law in relation thereto, including violations of interstate commerce laws.

Be it Resolved, That certified copies of this joint resolution be sent by the presiding officers of the two houses of this assembly, to the president of the United States and to the secretary of each of the eight departments of government in Washington.

JOINT MEMORIALS

JOINT MEMORIAL I.

PROTESTING TO THE SENATE OF THE UNITED STATES AGAINST THE PASSAGE OF STATEHOOD BILL WITH THE CLAUSE PROVIDING FOR THE ADMISSION OF NEW MEXICO AND ARIZONA AS ONE STATE. C. J. M. No. 1; Approved January 18, 1905.

To the Senate of the United States Congress:

Your memorialists, the legislative assembly of the Territory of New Mexico most respectfully protest against the passage of that clause of the statehood bill now before your honorable body, providing that New Mexico and Arizona shall become one state under the name of Arizona or any other name. Not only have the two great political parties of the nation in their national platform repeatedly promised New Mexico and Arizona admission into the Union, as separate states, but the people of this territory relying on these promises, and knowing their cause to be just, have likewise in their political platforms expressed themselves as unalterably opposed to becoming united with Arizona as provided in the bill now pending before your honorable body.

It certainly cannot be seriously insisted that New Mexico after having been a territory of the United States for more than fifty years, during which time her people have been a law abiding people and most faithful and loyal to the general government, is not fitted to take upon herself the responsibilities of a state government. If extent of area, wealth, population, intelligence and educational progress are elements to be considered in the admission of a new state, then we submit that New Mexico is entitled to admission at once. New Mexico is now fourth in area among all of the states and territories, and her population, 200,000 at the last census, was larger than that of thirty-one of the present forty-five states at the time of their admission. The population of New Mexico is about one-ninth that of the average of all of the states, while Ohio had but one-eighth and Indiana but one-twentieth of the general average when ad-

mitted. Our taxable property has a value of more than two hundred million dollars. Our system of public schools, our numerous modern school buildings throughout the territory, are models well worthy the emulation of some of the states of the Union. Strikes, lockouts, and mob violence are unknown in our territory, and the administration of justice is certain, and therefore the courts have the confidence of the entire people.

There are some special reasons why our claims should be considered favorably by your honorable body. New Mexico during the civil war showed her devotion and loyalty to the general government by the great number of soldiers she furnished for the union army. In the recent war with Spain, New Mexico furnished more than one-half of the soldiers that constituted the famous rough rider regiment, commanded by Col. Theodore Roosevelt.

In the opinion of your memorialists, Arizona is not without her claims to separate statehood. In 1863, when the territory was taken from New Mexico, congress in the act establishing the territory, promised it statehood within its present boundaries.

A territorial form of government is not compatible with the interests of the people. Such a government is intolerable and obnoxious to the American citizen. A territorial government is only intended to endure up to the point where the people are ready to enter the Union as a state.

Such a government as ours in this territory is a denial of many of the substantial rights of the people living within the territory. It is an injustice to them to longer keep them in territorial bondage. With the entrance of this territory into the Union of states, our wealth will rapidly increase. Capital will find investments here, that is too timid to enter a territory. Our great mineral resources, including vast iron and coal deposits, copper, silver, gold, sulphur, and other extensive minerals will be rapidly developed, and in a few years, under a state government, enjoying civil liberty, we will be a prosperous people.

Therefore, be it Resolved, That the secretary of the territory be and he is hereby directed to transmit certified copies of this memorial to the president of the United States, to the honorable secretary of the interior, to the president of the United States senate, and to the members of the senate committee on territories; and the secretary of the territory is further directed to have printed 500 copies of this memorial and to mail a copy to each of the members of the two houses of congress.

JOINT MEMORIAL 2.

**TO THE PRESIDENT OF THE UNITED STATES PROTESTING
AGAINST THE CREATION OF THE RIO DE JEMEZ FOREST
RESEBEVE. C. J. M. No. 2; Approved February 4, 1905.**

Be it resolved, That the following joint memorial be adopted by the 36th legislative assembly of the Territory of New Mexico:

To the President of the United States:

Your memorialists, of the 36th legislative assembly of the Territory of New Mexico, submit for your consideration this, its protest, on behalf of the people of the Territory of New Mexico, against the establishing of the Rio de Jemez forest reserve, which if established, would take in a large portion of the County of Rio Arriba and part of the County of Taos in said territory, and in that behalf respectfully represent.

That the said reserve has been established and set apart without the several thousands of people who live within the boundaries thereof and are mostly affected thereby, ever having any notice of the intent to establish it, and without being given any opportunity to protest against the same.

That the said reserve embraces a section of country almost as large or larger in area than the state of New Jersey, being ninety miles long and thirty miles wide, and including within its outer boundaries large tracts of land that are absolutely non-forest in character, and valuable only for mining, agricultural and grazing purposes, besides fifteen or more towns and villages and a large number of farms and stock ranches, as well as one of the most prominent mineral sections in the south-west, that is to say: The Bromide mining district, and also the Good Hope mining district. That embraces within its boundaries nearly two million acres of private land confirmed by the congress of the United States and the court of private land claims.

Your memorialists further represent that it fully appreciates the national economic value of proper forest reserves, but insists that in this particular case, because of the character of a large portion of the land embraced within it, the same does more injury than it can do good to the nation or to the Territory of New Mexico.

Your memorialists further represent that because of the rules and regulations governing forest reserves and the procurement of timber therefrom for mining purposes, that practically all of the mines in question will become greatly depreciated in value

or worthless, because of the inability of their owners to work them under the restrictions governing the procurement of timber from this forest reserve.

Your memorialists further represent that New Mexico's chief industry is that of sheep raising and that the territory has within the last four years, advanced from the fourth to the first place in the nation as a wool producer, and that a large portion of the country so included in this forest reserve has been for nearly a half a century last past the principal grazing ground for a large number of flocks of the territory and from which grazing ground all sheep will be thereby excluded, thus irreparably injuring the owners thereof as well as the territory at large.

That the establishing of this reserve practically amounts to the confiscation of all the ranches and homes of the people living within the boundaries thereof, and although they established themselves there more than fifty years ago and endured the great hardships and risks in the accumulation of the property they possess, they are to be driven out to begin life anew. Moreover, the practical wiping out of the taxable value of this large amount of property will work irreparable injury to the counties of Taos and Rio Arriba, and the Territory of New Mexico.

Wherefore, your memorialists respectfully and earnestly pray that all that portion of the Rio de Jemez reserve that lies within Taos and Rio Arriba counties, may be restored to the public domain and consequent location and entry, relieving the people who will suffer thereby so much in consequence of the establishment of said reserve over such a large area of land of non-forest country: And

Be it Further Resolved, That the honorable secretary of the Territory of New Mexico transmit a certified copy of this joint memorial to the president of the United States.

JOINT MEMORIAL 3.

PROTESTING AGAINST THE PASSAGE, IN ITS PRESENT FORM, BY THE SENATE OF THE UNITED STATES, OF H. R. 17939, RELATING TO THE CONSTRUCTION OF A DAM AND RESERVOIR ON THE RIO GRANDE IN NEW MEXICO, AND FOR OTHER PURPOSES. C. J. M. No. 3; Approved February 10, 1905.

Whereas, it appears that there is now pending in the senate of the United States congress a bill designated as H. R. 17939, passed by the house of representatives of said congress, relating

to the construction of a dam and reservoir on the Rio Grande in New Mexico, and for other purposes; and,

Whereas, it appears from the provisions of said bill that same establishes the priority of lands in New Mexico and Texas which have heretofore been actually irrigated for a considerable number of years in succession over lands in New Mexico (as well as in Texas) not so heretofore actually irrigated; and,

Whereas, the establishment of such a distinction by reason of such declared priorities would be detrimental to the development of that section of New Mexico referred to in said bill, and tend to retard settlement upon the public lands of the United States in said section, and is inimical to the best interests of the Territory of New Mexico; and,

Whereas, the bill in its present form is vague, ambiguous and uncertain as to the method provided therein for ascertaining the prior and vested water-rights therein mentioned.

Therefore your memorialist, the thirty-sixth legislative assembly of the Territory of New Mexico, believing and realizing that the said bill, in its present form, is subversive of the vested prior rights of the land owners within the section in New Mexico in said bill mentioned, and will cause great and interminable litigation, earnestly prays that said bill be not acted upon by the said senate of the United States until the duly accredited representatives of the Elephant Butte Water Users' Association of New Mexico have been given an opportunity to be heard by the senate committee having charge of said bill, and, further, that in no event shall said bill be passed in its present form.

JOINT MEMORIAL 4.

URGING THE GOVERNOR AND LEGISLATURE OF ILLINOIS TO PETITION THEIR REPRESENTATIVES IN CONGRESS TO CONCUR IN THE PASSAGE OF THE STATEHOOD BILL GIVING SEPARATE STATEHOOD TO NEW MEXICO. C. J. M. No. 4; Approved February 20, 1905.

Whereas, the United States senate on the 7th inst., passed a statehood bill, as amended, providing among other things for separate statehood for New Mexico, statehood in that form being what the people of New Mexico desire in preference to everything else and being for the welfare of New Mexico:

Therefore, the council and house of representatives of the

legislative assembly of New Mexico, now in session, most earnestly and respectfully memorialize and request the governor and legislative assembly of the state of Illinois to urge and insist that the representatives in congress from their state should concur in the said amendments to said bill as made by the United States senate, giving to New Mexico separate statehood, as being a just measure and one in the best interest of the people of New Mexico, as well as placing them on equal footing, as to full citizenship, with the other people of the United States.

JOINT MEMORIAL 5.

PROTESTING TO THE COMMISSIONER OF THE GENERAL LAND OFFICE AGAINST THE WITHDRAWAL OF LANDS FROM PUBLIC ENTRY IN SAN JUAN COUNTY. *H. J. M. No. 5, Approved March 2, 1905.*

Whereas, certain public lands in San Juan county, New Mexico, and within the Santa Fe land district have been by telegram of August 22, 1904, and by letter of September 12, A. D. 1904, by the commissioner of the general land office withdrawn from all forms of entry under the first class form of withdrawal and for irrigation works and purposes, which said lands so withdrawn include and embrace the following described lands, to-wit:

All of townships 31 and 32 north, range 10 west.

All of townships 30 and 31 north, range 11 west.

All of townships 29, 30, 31 and 32 north, range 12 west.

All of townships 29, 30, 31 and 32 north, range 13 west.

All of township 29 north, range 14 west, which is not included in the Navajo Indian reservation.

All of township 30 north, range 14 west.

All of township 30 north of range 15 west.

And whereas the public lands lying and being situate upon the south and east side of the Rio Las Animas river and within two miles of the said Rio Las Animas river on the north and west side of said river in the following townships and ranges, to-wit:

Townships 31 and 32 north, range 10 west.

Townships 30 and 31 north, range 11 west.

Townships 29 and 30 north, range 12 west, and

Townships 29 and 30 north, of range 13 west, can be reclaimed and brought under irrigation without the means of storage reservoirs by canals and ditches from the Rio Las Ani-

mas and Rio San Juan rivers, and that these lands do not require storage reservoirs to be built to irrigate and reclaim the same.

That it is that portion of the public lands withdrawn lying and being in the following townships and ranges which can only be reclaimed by storage reservoirs, to-wit:

All of townships 31 and 32 north of range 12 west.

All of townships 31 and 32 north, range west.

All of township 29 north, of range 14 west.

All of township 30 north, range 14 west, and

All of township 30 north, range 15 west, and all that portion of the following townships and ranges lying on the north and the west side of the Rio Las Animas river and that portion commencing two miles west and north of said Rio Las Animas river in and townships, to-wit:

Township 29 north, range 13 west.

Township 30 north, range 12 west.

Township 31 north, range 11 west, and

Township 32 north, range 10 west.

That the townships and ranges of land herein described as lying west and north of the Rio Las Animas river and those portions of townships lying two miles west and north of the Rio Las Animas river through which Rio Las Animas runs are proper lands to be withdrawn from entry for agricultural purposes under the homestead and desert land entry acts but that these lands are underlaid with coal or a portion of these lands are underlaid with coal and that coal land entries should not be discriminated against or disallowed upon these lands, and that all that portion those lands herein above described as lying west and north of the Rio Las Animas river is under and subject to the recent surveys made by the government for storage reservoirs and can only be reclaimed and irrigated by a system of storage reservoirs and it is the proper thing for these lands to be withdrawn from entry for agricultural purposes that all that portion of the lands herein described as lying east and south of the Rio Las Animas river and in those townships and ranges through which said Las Animas river runs including the lands within two miles of said Las Animas river on the north and east side thereof do not need storage reservoirs to reclaim and irrigate them and that they can be reclaimed and irrigated from canals and ditches taken from the Rio Las Animas and Rio San Juan rivers where there is an abundance of water for irrigation purposes.

That the County of San Juan is one of the undeveloped coun-

ties of New Mexico, and that it has large bodies of rich coal lands and rich agricultural and fruit lands some of which can be irrigated without storage reservoirs and some of which require storage reservoirs to irrigate and reclaim the same. The County of San Juan is rapidly settling up with farmers and fruit growers, stock raisers and actual settlers who desire to locate, settle and file under the government land laws on those portions of the public lands which can be irrigated and reclaimed by canals and irrigation ditches without the necessity of storage reservoirs and many applications for coal lands have been made since this order of withdrawal which said applications have been rejected because of said order of withdrawal from any forms of entry and that the existence of that order of withdrawal as to those agricultural lands lying east and south of the Rio Las Animas river and as to the entry of coal lands embraced within the limits of the lands in said order and that the existence of said order which embraces more lands than it should embrace is proving very detrimental and injurious to the settlement and advancement of the County of San Juan. That the County of San Juan is rapidly settling up and being filled with a thrifty class of industrial farmers, fruit growers and stock raisers many of whom would make entries and file upon both agricultural and coal lands if this order did not prevent the same. That this order of withdrawal in its present condition and to its full extent as now held by the local land office at Santa Fe, N. M., is a great detriment and drawback to the rapid settlement and development of San Juan county and that the order of withdrawal should be modified to that extent to eliminate all lands from coal entries of filings and to eliminate that portion of the lands lying south and east of the Rio Las Animas river within two miles of it on the west and north side of the Rio Las Animas river where storage reservoirs are not necessary and to permit the entry of such lands by actual settlers for agricultural purposes under the homestead and desert land entry laws.

Therefore, be it resolved by the Legislative Assembly of the Territory of New Mexico:

That the Hon. Secretary of the interior department and the Hon. Commissioner of the general land office at Washington, D. C., be, and they are hereby requested, to modify their order of withdrawal of August 22, and September 12, A. D., 1904, withdrawing from all forms of entry the lands hereinbefore mentioned and that they eliminate from that order and restore

to entry all coal lands and all agricultural lands lying within two miles of the Rio Las Animas river on the north and west side of the Rio Las Animas river and on the south and east sides of the Rio Las Animas river herein above described and designated to be withdrawn and that the same be immediately or at the earliest convenience restored to entry for the above purposes under the public land laws.

JOINT MEMORIAL 6.

TO THE CONGRESS OF THE UNITED STATES, REQUESTING THE PASSAGE OF HOUSE BILL NO. 7269, RELATIVE TO THE PAJARITO CLIFF DWELLERS' NATIONAL PARK. *H. J. M. No. 2; Approved March 2, 1905.*

Whereas, there is now pending in the congress of the United States a bill introduced by Hon. John F. Lacey of Iowa, establishing the Pajarito cliff dwellers' national park in this territory, and

Whereas, the speedy passage of said bill by the present congress is very important, for the protection of the extensive and interesting ruins within the boundaries of said park, and for the accommodation of scientists and tourists from all parts of the world who desire to visit the same;

Now therefore, (if the council concur)

Be it resolved by the Legislative Assembly of New Mexico:

That the congress of the United States be earnestly requested to pass house bill No. 7269 entitled "To set apart certain lands in the Territory of New Mexico as a public park, to be known as the Pajarito cliff dwellers' national park, for the purpose of preserving the pre-historic caves and other works and relics therein" at its present session.

Resolved, That a copy of this memorial be sent to the president of the senate and speaker of the house of representatives of the United States, and to Hon. J. F. Lacey and Hon. B. S. Rodey.

JOINT MEMORIAL NO. 7.

PETITIONING THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES TO PASS LEGISLATION REGULATING INTERSTATE COMMERCE IN THE MATTER OF ADULTERATED FOODS, ETC. A. C. J. M. No. 5; Approved March 3, 1905.

To the Honorable the Senate and House of Representatives, of the United States of America, in Congress assembled:

The people of the Territory of New Mexico, through your memorialists the thirty-sixth legislative assembly, now in session at Santa Fe, respectfully advise the congress of the United States that the legislature of this territory has heretofore enacted laws for the protection of the people against adulterated, misbranded and deleterious foods, drugs, and medicines, and realizing the necessity for adequate legislation by congress to protect the states against interstate commerce which is beyond the control of the territory, in such prohibited articles, does hereby memorialize the senate of the United States to speedily enact efficient legislation prohibiting interstate commerce in adulterated, misbranded and deleterious foods, drugs and medicines to the end that the laws of our territory relative thereto may be more effective.

The secretary of the territory shall forward at once a certified copy of this memorial to the president of the senate and one to the speaker of the house of representatives.

JOINT MEMORIAL 8.

URGING THE CREATION OF A NEW LAND OFFICE DISTRICT WITH OFFICE AT SANTA ROSA. H. J. M. No- 3; Approved March 13, 1905.

Whereas, there is urgent necessity for the establishment of another land office district in the Territory of New Mexico to be composed of the territory herein below described, and

Whereas, in the opinion of this legislative assembly, the town of Santa Rosa is the most accessible and suitable place in the proposed district for the location of a land office, therefore,

Be it resolved by the Legislative Assembly of the Territory of New Mexico:

That the congress of the United States be and it is hereby requested to enact at once such a law as will provide for a new

land office district to include all lands within the following boundaries, to-wit:

Beginning at the standard corner of township 1 north, between ranges 10 and 11 east, on the New Mexico principal base line; thence north along the range lines between range 10 and 11 east to the third standard parallel north; thence east along the said third standard parallel north to the east boundary line of New Mexico; thence south along the said east boundary line of New Mexico to the New Mexico principal base line, and thence west along the said New Mexico principal base line to the place of beginning; and then when such act shall have become a law the president of the United States is requested to fix the land office therein at Santa Rosa.

JOINT MEMORIAL 9.

TO THE SECRETARY OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS, ASKING THAT THE NAVAJO INDIANS HAVING RESERVATIONS AND RESIDING WITHIN THE TERRITORY OF NEW MEXICO. BE REQUIRED TO STAY WITHIN THE LIMITS OF THIER RESERVRTION AND TO CEASE VIOLATIONS OF THE GAME LAWS OF THE TERRITORY OF NEW MEXICO.
A. C. J. M. Mo. 6; Approved March 14, 1905.

Be it resolved, that the following joint memorial be adopted by the 36th legislative assembly of the Territory of New Mexico:

To the Secretary of the Interior and the Commissioner of Indian Affairs, Washington, D. C.:

Your memorialists, the thirty-sixth legislative assembly of the Territory of New Mexico, submit for your consideration in behalf of the people of this territory, that the Navajo Indians residing in New Mexico, and particularly in the Counties of San Juan, Rio Arriba, Valencia, Socorro, Sierra, Grant, McKinley and Sandoval, are constantly taking up all the waters within a radius of twenty miles of their reservation, that they have taken the waters as aforesaid for the purpose of making sheep men pay them for the water in order to water their sheep. That this has become a great burden upon the sheep men of the Counties of Rio Arriba, San Juan, Valencia, Socorro, Sierra, Sandoval, Grant and McKinley, and of other portions of the Territory of New Mexico.

That the taking up of said waters by the said Navajo Indians

so far outside of their reservation and the depriving of the sheep men from using these watering places in the public domain is liable to lead to very serious difficulty if not to a war.

That the Navajo Indians residing in New Mexico, and particularly the Counties of San Juan, Sandoval, Rio Arriba, Valencia, Socorro, Sierra, Grant and McKinley, are constantly violating the game laws of the Territory of New Mexico, and are trespassing upon the public domain and the property of the American citizens residing in said Counties of Taos, San Juan, Sandoval, Rio Arriba, Valencia, Socorro, Sierra, Grant and McKinley by going off their reservations and grazing their stock on the lands of the citizens, driving the citizens stock from off their own lands and in some instances stealing and destroying the stock of citizens.

That the attention of the Indian agent at Fort Defiance has repeatedly been called to this state of affairs, but that no diminution of these violations have taken place, on the contrary, they are constantly on the increase.

That the citizens of the territory though respecting and living up to the laws of the territory, are compelled to see these violations constantly going on, without any protection therefrom, or prosecutions of Indians for such violations.

Therefore, in view of these facts, we urge and petition that you exercise the powers of your official positions, commanding the Indian agent to see that these violations cease and this your memorialists will ever pray.

And be it Further Resolved, That the clerk of the legislative council certify a copy of this memorial forthwith to the secretary of the interior and the commissioner of Indian affairs at Washington, D. C.

JOINT MEMORIAL 10.

REQUESTING THE UNITED STATES CONGRESS TO CREATE A SEVENTH JUDICIAL DISTRICT. C. J. M. No. 8; Approved March 14, 1905.

Be it resolved by the Council of the 36th Legislative Assembly To the Honorable the Senate and House of Representatives of the United States in Congress Assembled:

The people of the Territory of New Mexico, through your memorialist, the thirty-sixth legislative assembly, now in session at Santa Fe, respectfully petition that the congress of the

United States pass, at the earliest possible moment, an act creating a seventh judicial district for this territory, with headquarters at the city of Socorro and in that behalf respectfully represent:

That the large area required to be covered under present arrangements is such as to create an undue hardship upon the presiding judge of some of the districts;

That the mileage now made necessary on account of such large area contained in such districts, create an extravagant expense and is a burden upon the taxpayer as well as upon litigants having business before the court;

The creation of an additional judicial district in New Mexico will very materially assist the efficiency of the service and in the aggregate result in economic advantage to the taxpayer and greatly facilitate the transaction of the business generally.

And your memorialist will ever pray.

And be it further resolved by the Legislative Assembly of the Territory of New Mexico:

That the secretary of this territory be and is hereby requested to certify a copy thereof forthwith to the president of the senate and the speaker of the house of representatives of the United States, and to the delegate in congress, the Hon. W. H. Andrews.

JOINT MEMORIAL II.

**PETITIONING THE HONORABLE SECRETARY OF AGRICULTURE
TO GRANT PERMISSION TO THE TERRITORY OF NEW MEXICO,
TO CONSTRUCT AND MAINTAIN THAT PORTION OF THE
CAMINO REAL KNOWN AS THE "SCENIC ROUTE ROAD"
UPON AND ACROSS THE PECOS FOREST RESERVE. C. J.
M. No. 9; Approved March 14, 1905.**

To the Honorable Secretary of Agriculture:

Your memorialist, the thirty-sixth legislative assembly of the Territory of New Mexico, most respectfully represents that pursuant to the provisions of an act of the thirty-fifth legislative assembly entitled "An Act to authorize and require the use of penitentiary labor to construct a public road from Santa Fe to Las Vegas," approved March 14, 1903, and the acts amendatory of and supplemental thereto, said road has been nearly completed from Santa Fe to the southern boundary line of the Pecos forest reserve and has been partially constructed from the City of Las Vegas to a point near the eastern boundary

line of said forest reserve; that the constructed road has been declared by the most reliable authority to be the best constructed mountain roadway in the United States; that it will soon be necessary, for the completion of said road, as contemplated by the act of the thirty-fifth legislative assembly, to make the proper surveys and estimates across the Pecos forest reserve; that for the purpose of making such preliminary surveys your memorialist is advised that it is necessary to first obtain permission from the honorable, the secretary of agriculture.

Your memorialist further states that at its present session it has enacted a law, under the provisions of which convict labor is to be employed in the construction and maintenance of a great highway having for its initial terminus a point on the Raton mountains on the line between the state of Colorado and the Territory of New Mexico, where said mountain range was formerly crossed by the old Santa Fe trail, and ending at El Paso in the state of Texas. That said highway has been called in said act "El Camino Real;" that in its route traversing the Territory of New Mexico until it reaches the City of Las Vegas, in the County of San Miguel, said highway follows as near as may be the route formerly known as the "Santa Fe Trail;" that from the City of Las Vegas to the City of Santa Fe, the capital of this territory, the highway as contemplated and authorized by law, will cross the Pecos forest reserve; that pursuant to the provisions of the act of the thirty-sixth legislative assembly, an appropriation of ten thousand dollars has been made for purposes of construction of this highway and the necessary equipment to be employed by convict labor in the building thereof and an annual tax levy thereafter which will raise a like sum every year based upon the present assessed valuation of all property in New Mexico.

Your memorialist further states that in addition to the commercial and material benefits to be derived from the construction and maintenance of this great highway, reaching as it will every large center of population in the territory, except the Pecos valley in the extreme south-eastern portion of the territory, the marvelous scenic attractiveness of the Rocky mountain region of New Mexico will be revealed to tourists and travelers of all sorts; the portion of the highway passing across the Pecos forest reserve is calculated to reach localities now practically inaccessible to our people for any purpose and which for grandeur and beauty rival any mountain scenery in the United States.

Your memorialist further states that it is in entire harmony

with the forest reserve policy of the national government and believes that the preservation of the forests within the boundaries of our territory is absolutely essential to the welfare of our people whose interests are so largely identified with the irrigation of our fertile valley and plains; that we recognize the part played by the forest areas in our highest mountains in the preservation of the snows falling during winter months and believe that the deforestation of these great mountain areas in Colorado and New Mexico during the past twenty-five years is one of the principal causes for the heavy floods and early run-off of waters before that time held in check through the density of the forest regions.

Your memorialist further states that in addition to the deforestation for logging and lumber purposes, great areas of forest have been utterly lost and destroyed through fires arising from various causes and extremely difficult to extinguish owing to the inaccessibility of the areas thus jeopardized; that your memorialist firmly believes that the construction of this highway through the Pecos forest reserve making the greatest elevations accessible to man will be an agency in the preservation of the forest areas of the most pronounced and efficient kind; that in addition to the material present benefit thus derived from such road constructed, your memorialist believes that by thus making it possible for all our people, not only in New Mexico, but those who shall visit this territory for various reasons, to become acquainted with this great mountain park region there will be created a sentiment demanding the carrying out of the present governmental policy of forest preservation all of which will lead to results incalculably beneficial to the American nation.

And your memorialist attaches hereto a copy of its act establishing the highway and providing for its construction by the use of convict labor:

Wherefore, your memorialist, respectfully asks that you make an order permitting the Territory of New Mexico, through the agencies provided in the act mentioned, giving and granting unto the territory the right and permission to make surveys for said highway upon said Pecos forest reserve and to construct said highway in accordance with the provisions of said act of the legislative assembly of this territory.

And it is hereby resolved by the Legislative Assembly of the Territory of New Mexico.

That the chief clerks of the legislative council and the house

of representatives, respectively, are hereby directed to transmit a certified copy of this memorial to the honorable, the secretary of agriculture, and to also furnish a certified copy of the same to the Honorable William H. Andrews, delegate in congress from this territory.

**TERRITORY OF NEW MEXICO, }
OFFICE OF THE SECRETARY, } ss.**

I, J. W. Raynolds, Secretary of the Territory of New Mexico, do hereby certify that I have compared the foregoing printed copies of the Acts, Joint Resolutions and Joint Memorials of the Thirty-sixth Session of the Legislative Assembly of the Territory of New Mexico, with the enrolled and engrossed originals thereof now on file in this office, and declare them to be correct transcripts therefrom and of the whole thereof.



Given under my hand and the Great Seal
of the Territory of New Mexico, at
Santa Fe, the capital, this the twelfth
day of April, A. D. 1905

J. W. RAYNOLDS,
Secretary of New Mexico.



INDEX

Of Specific Amendments and Repeals Since Compilation of 1897. Abbreviations: *Amendment, A.; Repeal R.;* *Compiled Laws 1897, C. L. '97; Session Laws, L.*

ABETTERS—

	Chap.	Sec.	Yr.
Principals, when deemed, Secs. 1150, 1159, C. L. '97, A.....	52	1	1905
When considered principal, Sec. 1, Chap. 16, L. '97, A.....	41	1	1905

ACEQUIAS—

Appeals, Sec. 16, C. L. '97, A.....	22	1	1901
Appraisers in constructing, Sec. 24, C. L. '97, A.....	44	3	1903
Considered corporations, Sec. 8, C. L. '97, A.....	90	1	1903
Duties of officers, Sec. 11, C. L. '97, A.....	32	3	1903
Duties of officers, Sec. 11, C. L. '97, A.....	44	1	1903
Indians, when required to work, Sec. 1, Ch. 29, L. '01, A.....	36	1	1905
Interference with, Sec. 13, C. L. '97, A.....	44	2	1903
Labor by owners, Sec. 32, C. L. '97, A.....	44	4	1903
Management. Secs. 36, 37, 38 and 39, C. L. '97, R.....	44	5	1903
Management and control, Secs. 12, 13, 30, 31, 32, 33, 34, 35 and 36, C. L. '97 R.....	32	12	1903
Obstructing, penalty, Sec. 36, C. L. '97, A.....	80	6	1899
Officers, duty, Sec. 9, C. L. '97, A.....	32	1	1903
Qualifications of voters, Sec. 10, C. L. '97, A.....	32	2	1903

ACTIONS—

Civil, where and how commenced, Sec. 2950, C. L. '97, A.....	80	16	1899
Extension of time to begin, Secs. 2937 and 2938, C. L. '97, A....	63	1-2	1899

ADMINISTRATORS AND EXECUTORS—

Administration, Secs. 1938, 1939, 1941, 1945, 1946, 1955 and 1961, C. L. '97, R.....	81	14	1901
Appraiser to be appointed by, Sec. 19, Ch. 81, L. '01, A.....	50	1	1905
Inventory, who shall make, Sec. 2023, C. L. '97, R.....	81	18	1901
Oath during contest, Sec. 1943, C. L. '97, A.....	81	2	1901
Persons not qualified to act, Sec. 16, Ch. 81, L. '01, A.....	35	1	1903
Procedure upon failure to bring suit, Sec. 6, Ch. 81, L. '01, A..	131	1	1905

ADVERSE POSSESSION—

Definition of, Sec. 2, Ch. 63, L. '99, A.....	76	1	1905
Suits, when to be commenced, Sec. 2, Ch. 63, L. '99, A.....	76	1	1905

ANIMALS—

Penalty for trespass, Sec. 2, Ch. 28, L. '01, R.....	130	1	1905
------------------------------------------------------	-----	---	------

APPEALS—

Criminal cases, effect of, Sec. 3420, C. L. '97, A.....	80	14	1899
Criminal cases, effect of, Sec. 3420, C. L. '97, A.....	93	1	1901
Criminal cases, effect of, Sec. 3420, C. L. '97, A.....	32	2	1899
Criminal cases, effect of, Ch. 32, L. '99, A.....	93	1	1901
Criminal, transcript of record, Sec. 3413, C. L. '97, A.....	80	15	1899

	Chap.	Sec.	Yr.
APPRAISERS—			
Appointment of, Sec. 19, Ch. 81, L. '01, A.....	50	1	1903
Compensation, Sec. 19, Ch. 81, L. '01, A.....	50	1	1903
APPROPRIATIONS—			
Territorial library, Sec. 4, Ch. 97, L. '03, A.....	112	10	1903
ARSON—			
Secs. 1101, 1102, 1108, C. L. '97, R.....	29	..	1903
ASSESSMENTS—			
Street improvements, Sub-sec. 82nd, Sec. 2402, C. L. '97, R....	42	9	1903
ATTACHMENT—			
Interrogatories, answer to be filed, Sec. 2708, C. L. '97, A....	80	13	1899
Interrogatories, filing with writ, Sec. 2698, C. L. '97, A.....	80	12	1899
AUDITOR, TERRITORIAL—			
Appointment, bond, office at capitol, Sec. 2608, C. L. '97, A....	69	1	1903
BANKING—			
Unlawful when, Sec. 254, C. L. '97, A.....	49	1	1891
BANKS—			
Savings, general provisions, Sec. 260, C. L. '97, A.....	56	1	1901
BAWDY HOUSES—			
Violations, officers to prosecute, Sec. 5, Ch. 84, L. '01, A....	113	1	1903
BERNALILLO COUNTY—			
Election of officers, Sec. 3, Ch. 27, L. '03, A.....	49	1	1903
BLANKS—			
Certain officials to furnish, Sec. 1027, C. L. '97, A.....	45	1	1899
BOARD OF PHARMACY—			
Examinations, Sec. 3721, C. L. '97, A.....	43	1	1903
Fees for registration, Sec. 3722, C. L. '97, A.....	43	1	1903
BOARD OF PUBLIC LANDS—			
Adoption of seal, Sec. 33, Ch. 74, L. '99, A.....	69	14	1901
Contingent expenses, Sec. 5, Ch. 74, L. '99, A.....	69	2	1901
Compensation proviso, Sec. 2, Ch. 74, L. '99, R.....	69	2	1901
School sections, Sec. 30, Ch. 74, L. '99, A.....	90	1	1905
BOARD OF REGENTS; TERRITORIAL INSTITUTIONS—			
Powers to condemn land, Sec. 3693, C. L. '97, A.....	18	6	1899
BONDS—			
Capitol rebuilding, Sec. 2, Ch. 9, L. '99, A.....	28	1	1899
Capitol rebuilding, sale of, Sec. 3, Ch. 9, L. '99, A.....	39	1	1899
County, Sec. 29, Ch. 58, L. '99, R.....	41	9	1901
County refunding, Sec. 15, Ch. 58, L. '99, A.....	44	3	1901
General refunding, Sec. 24, Ch. 59, L. '99, A.....	44	6	1901
Incorporated towns, Sec. 1, Ch. 78, L. '99, A.....	33	1	1901
New issue, form, Sec. 14, Ch. 58, L. '99, A.....	44	2	1901
Payment of principal and interest, Sec. 3, Ch. 78, L. '99, A....	33	2	1901
School house, directors to issue, when, Sec. 1541, C. L. '97, A..	81	1	1903
Territorial, retirement of, Sec. 12, Ch. 58, L. '99, A.....	90	11	1901
BOUNTIES—			
Wild Animals—			
Amount to be paid, Sec. 1, Ch. 80, L. '03, R.....	77	1	1903
Levy, Sec. 1, Ch. 80, L. '03, R.....	77	1	1903
Secs. 714, 717, 763, 764, 765, 766, and 767, C. L. '97, R....	38	3	1899
Ch. 10, L. '01, A.....	80	1	1903
BRIDGES—			
Construction of, Ch. 11, L. '99, A.....	51	1	1901
Assessment, Sec. 1, Ch. 67, L. '01, A.....	68	1	1903

BUILDING AND SAVINGS AND LOAN ASSOCIATIONS—**BUREAU OF IMMIGRATION—**

Chap. Sec. Yr.

Compensation, Sec. 1870, C. L. '97, A.....	110	1	1905
Members, Sec. 1870, C. L. '97, A.....	110	1	1905
Term of members, Sec. 1870, C. L. '97, A.....	110	1	1905
Vacancies, Sec. 1870, C. L. '97, A.....	110	1	1905

BUTCHERS—

License, Sec. 92, C. L. '97, R.....	45	5	1901
-------------------------------------	----	---	------

CAPIAS—

Secs. 2730 to 2737 inclusive, C. L. '97, R.....	80	5	1899
-------------------------------------------------	----	---	------

CAPITOL CUSTODIAN COMMITTEE—

Secs. 3468, 3469, 3470, 3471 and 3472, C. L. '97, R.....	73	6	1901
----------------------------------------------------------	----	---	------

CATTLE—

Diseases of, Sec. 197, C. L. '97, A.....	1	1	1903
Fees for inspection of, Sec. 221, C. L. '97, R.....	53	4	1899
Killing by railroad companies, Sec. 241, C. L. '97, A.....	86	1	1901
Killing of, Sec. 125, C. L. '97, A.....	102	1	1901
Sale by cattle sanitary board, Sec. 223, C. L. '97, A.....	121	1	1903
Shipment of, Sec. 211, C. L. '97, R.....	53	4	1899

CATTLE SANITARY BOARD—

Reorganization of, members, terms, etc., Sec. 182, C. L. '97, A..	49	1	1905
Tax levy, Sec. 200, C. L. '97, A.....	1	2	1903

CITY OFFICERS—

Election and term of office, Sec. 3, Ch. 9, L. '03, A.....	93	2	1903
Provisions of, Ch. 9, L. '03, extended to all cities	36	1	1903
Socorro, Sec. 2, Ch. 9, L. '03, A.....	113	2	1903
Term of office, Sec. 1, Ch. 9, L. '03, A.....	93	1	1903

CIVIL PROCEDURE—

Answers, Sub-Sec. 39, Sec. 2685, C. L. '97, A.....	82	6	1901
Court proceedings, Sub-Sec. 172, Sec. 2685, C. L. '97, A.....	75	5	1899
Executions and writs, Sub-Sec. 176, Sec. 2685, C. L. '97, A....	75	7	1899
Extraordinary writs not affected by code, Sub-Sec. 175, Sec. 2685, C. L. '97, A.....	75	6	1899
Extraordinary writs not affected by code, Sub-Sec. 175, Sec. 2685, C. L. '97, A.....	5	1	1903

COAL OIL—

Inspection, Secs. 2640, 2641, and 2644, C. L. '97, A.....	12	1-4	1899
Inspection, Ch. 12, L. '99, R.....	64	8	1901
Inspection Secs. 2640, 2641, 2642, 2643, 2644, 2645 and 2646, C. L. '97, R.....	64	8	1901
Inspection, Cr. 64, L. '01, R.....	3	1	1903
Inspection, Ch. 66, L. '05, A.....	122	1	1905

COMMISSION OF IRRIGATION—

Duties, Sec. 34, Ch. 74, L. '99, A.....	69	15	1901
-----------------------------------------	----	----	------

COMMISSIONERS—

River. Sec. 807-813, 816-817, C. L. '97, R.....	18	16	1905
-------------------------------------------------	----	----	------

COMPILED LAWS OF 1897—

Distribution of, Prefatory, Ch. C. L. '97—portions, R.....	48	4	1899
------------------------------------------------------------	----	---	------

CONDEMNATION PROCEEDINGS—

Municipal corporations, Sub-Sec. 92nd, Sec. 2402, C. L. '97, A..	41	1	1903
Railroad companies, Sub-Div. and Sec. 3850, C. L. '97, A.....	31	1	1903

CONTRACTS—

Against public policy, Ch. 15, L. '01, R.....	113	1	1903
-----------------------------------------------	-----	---	------

CONVICTS—

Reduction of sentence, Sec. 3536, C. L. '97, A.....	1	1	1899
Restoration to citizenship, Sec. 3541, C. L. '97, A.....	1	2	1899

COPORATIONS—

	Chap.	Sec.	Yr.
Balance sheet to be filed, Secs. 3 and 4, Ch. 77, L. '99, R.....	20	1	1901
Fees collected, distribution, Sec. 5, Ch. 77, L. '99, A.....	20	2	1901
Fees prescribed, Sec. 1, 2, Ch. 114, L. '03, A.....	79	119	1905
Fees for filing certificates, Secs. 441 and 443, C. L. '97, A....	77	..	1899
Foreign, admissions, Sec. 445, C. L. '97, A.....	65	1	1903
Irrigation, dissolution of, Sec. 481, C. L. '97, A.....	92	1	1905
Liability of, Sec. 446, C. L. '97, A.....	65	2	1903
Publication of articles, Sec. 1, Ch. 77, L. '01, A.....	79	135	1905
Secs. 441-456, C. L. '97, R.....	79	134	1905

COUNTIES—

Guadalupe county, legislative district, Sec. 12, Ch. 69, L. '03, A	20	2	1905
Guadalupe, Quay and Roosevelt, third class counties, Sec. 14, Ch. 69, L. '03, A.....	20	4	1905

COUNTY COMMISSIONERS—

Dykes, money to be borrowed for construction of, when, Ch. 19, L. '05, A.....	44	1	1905
----------------------------------------------------------------------------------	----	---	------

COUNTY INDEBTEDNESS—

Fees and salaries to be paid pro rata, Sec. 301, C. L. '97, A....	36	1	1901
-------------------------------------------------------------------	----	---	------

COUNTY INSTITUTES

Expenses, Sec. 1613, C. L. '97, A.....	119	5	1903
----------------------------------------	-----	---	------

COUNTY OFFICERS—

Salaries, Sub-Secs. 5, 8 and 13, Sec. 867, C. L. '97, A.....	25	1-3	1899
--------------------------------------------------------------	----	-----	------

COUNTY SEATS—

Removal of, Sec. 630, C. L. '97, A.....	119	1	1905
-----------------------------------------	-----	---	------

COUNTY SUPERINTENDENTS—

Compensation, Ch. 34, L. '99, R.....	14	1	1901
Compensation, Sec. 6, Ch. 27, L. '01, R.....	60	6	1905

COURTS—

Supreme, practice, Sec. 1, Ch. 5, L. '03, A.....	114	6	1905
Practice, Sec. 6, Ch. 75, L. '99, R.....	114	10	1905
Term, Sec. 1, Ch. 4, L. '99, A.....	114	1	1905

CRIMES AND OFFENSES—

Tampering with locomotive attachments, Sec. 1, Ch. 16, L. '97, A	41	1	1905
District attorney, consulting with defendant, penalty, Sec. 2582, C. L. '97, A.....	93	1	1905
Murder, tampering with locomotive attachments, when, Sec. 1, Ch. 16, L. '97, A.....	41	1	1905
Railroad track obstruction of, a felony, Secs. 1150, 1159, C. L. '97, A.....	52	1	1905
Solicitor general, consulting with defendant, penalty, Sec. 2582, C. L. '97, A.....	93	1	1905

CRIMINALS—

Cannot defend criminal, Sec. 3777, C. L. '97, R.....	35	2	1899
Discharge second term after indictment, Sec. 3403, C. L. '97, R	55	2	1899
When bailable, Sec. 3409, C. L. '97, R.....	32	1	1899

CULTIVATED LANDS—

Boundaries, Sec. 1824, C. L. '97, A.....	55	2	1905
Fences, when required, Sec. 1823, C. L. '97, A.....	55	1	1905

DAMAGES—

Fields, Secs. 145, 146, 147, 148, 149, 150 and 151, C. L. '97, R..	92	1	1901
Fields, by animals, Sec. 1, Ch. 73, L. '03, A.....	98	1	1905
Public lands, Sec. 23, Ch. 74, L. '99, A.....	69	8	1901

DEATH PENALTY—

Manner of inflicting, Sec. 1067, C. L. '97, A.....	76	1	1903
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DENTISTRY—

	Chap.	Sec.	Yr.
Practice, examination for, Secs. 5, 6, Ch. 60, L. '93, A	45	1	1905
Fee for registering, Sec. 6, Ch. 60, L. '93, A	45	2	1905

DEPOSITIONS—

Notice and publication, Secs. 3053, 3054 and 3055, C. L. '97, R..	5	6	1903
Perpetuating testimony, notice, Sec. 3052, C. L. '97, A	5	5	1903

DISTRICT ATTORNEYS—

Residence, Sec. 1, Ch. 46, L. '03, A	104	1	1903
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DYKES—

Money to be borrowed for construction of, when, Ch. 19, L. '05, A	44	1	1905
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ELECTION RETURNS—

Forwarding, when and to whom, Sec. 1653, C. L. '97, A.....	80	17	1899
Mileage in forwarding, Sec. 1567, C. L. '97, A	81	9	1899
Senatorial districts, Secs. 1654 and 1655, C. L. '97, R	48	2	1901

EMBLEMS—

Adoption of, Sec. 1633, C. L. '97, A	59	1	1903
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ESTATES—

Division, Secs. 2030 and 2031, C. L. '97, R	62	9	1901
Executor's account, Sec. 2005, C. L. '97, A	81	25	1901

EVIDENCE—

Disqualifications of witnesses, Sec. 3016, C. L. '97, A	58	1	1901
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EXECUTIONS—

Levy, notice to debtor, Sec. 3107, C. L. '97, A	49	1	1901
Schedule of property, Secs. 3108 and 3109, C. L. '97, R	49	2	1901

EXECUTORS AND ADMINISTRATORS—

Appraisers to be appointed by, Sec. 19, Ch. 81, L. '01, A.....	50	1	1905
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EXEMPTIONS—

Sec. 1746, C. L. '97, A	82	1	1905
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EX-UNITED STATES SOLDIERS—

School sections, preference right to, Sec. 30, Ch. 74, L. '99, A..	90	1	1905
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FEES—

Water users' association, filing articles, Sec. 1, Ch. 114, L. '03, A	15	1	1905
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FENCES—

Cultivated lands, when required about, Sec. 1823, C. L. '97, A ..	55	1	1905
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FINES—

Distribution of, third paragraph, Sec. 1548, C. L. '97, A	119	17	1903
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FLOOD SUFFERERS' RELIEF FUND—

Sec. 1, Ch. 3, L. '05, A	88	2	1905
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FORCIBLE ENTRY AND DETAINER—

Action for, when, Sec. 3345, C. L. '97, A	32	1	1901
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GAME—

Protection of, Ch. 51, L. '99, R	48	19	1903
Ch. 26, L. '01, R	51	6	1905
Secs. 6, 11, 14, 15, 16, 18, Ch. 48, L. '03, R	51	6	1905
Secs. 1354-1367, C. L. '97, R	51	6	1905

GARNISHMENTS—

General procedure, Sec. 3299, C. L. '97, A	133	1	1905
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GEOLOGICAL SURVEY—

Funds transferred to insane asylum, Ch. 69, L. '01, R	108	2	1903
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GUADALUPE COUNTY—

Creation of, Ch. 69, L. '03, A	20	1	1905
Legislative district, Sec. 12, Ch. 69, L. '03, A	20	2	1905

GUADALUPE COUNTY—Continued.

	Chap.	Sec.	Yr.
Organization. Secs. 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611 and 612, C. L. '97, R	69	1	1903
Third class county, Sec. 14, Ch. 69, L. '03, A	20	4	1905
GUARDIAN—			
Appointment of, Sec. 2053, C. L. '97, A	5	3	1903
HEARINGS—			
Civil cases, when, Sub-Sec. 104, Sec. 2685, C. L. '97, A	11	2	1901
HIGHWAYS—			
Maintenance of, Secs. 1831, 1832, 1833 and 1834, C. L. '97, R ..	40	22	1901
INDEBTEDNESS—			
Outstanding, redemption of, Sec. 11, Ch. 90, L. '01, A	67	1	1903
INFANTS—			
Property, sale of, Sec. 2052, C. L. '97, A	5	2	1903
INHERITANCE—			
Children disinherited, when, Sec. 1477, C. L. '97, A	81	38	1901
INSTITUTES, COUNTY—			
Regulations of, Sec. 1, Ch. 120, L. '03, A	73	2	1905
INSURANCE DEPARTMENT—			
Act approved January 26, 1861, R	5	30	1905
Annual fee required, Sec. 11, Ch. 70, L. '05, A	70	2	1905
Ch. 106, L. '01, R	5	30	1905
Premiums subject to tax, what, Sec. 31, Ch. 5, L. '05, A	39	1	1905
Reports, time for rendering, changed, Sec. 18, Ch. 5, L. '05, A ..	39	1	1905
"Superintendent" inserted in lieu of "Commissioner," Sec. 9, Ch. 5, L. '05, A	70	1	1905
Sec. 55, Ch. 5, L. '05, A	39	1	1905
Secs. 2115, 2117, 2118-2120, 2122-2126, 2128-2135, C. L. '97, R..	5	30	1905
INTERROGATORIES—			
Commission for taking, Sec. 2041, C. L. '97, A	122	1	1903
Duty of officers in taking, Sec. 3043, C. L. '97, A	122	3	1903
Taking of depositions on, Sec. 7, Ch. 82, L. '01, A	122	4	1903
JOURNAL BEARINGS—			
Tampering with, a felony, Sec. 1, Ch. 16, L. '97, A	41	1	1905
JUDGMENTS—			
Attachment suit, review, Sec. 8, Ch. 75, L. '99, A	82	2	1901
Default, when may be set aside, Sub-Sec. 134, Sec. 2685, C. L. '97, A	26	1	1905
JURIES AND JURORS—			
Appointment to supply disqualification, Sec. 2, Ch. 66, L. '99, A ..	112	4	1903
Ch. 66, L. '99, R	116	27	1905
Grand and petit, qualifications, Sec. 11, Ch. 66, L. '99, A	112	5	1903
Grand and petit, selection, Sec. 2, Ch. 66, L. '99, A	112	2	1903
Selection, issuance of venire, Sec. 5, Ch. 66, L. '99, A	112	3	1903
JURY COMMISSIONER—			
Appointment, Sec. 1, Ch. 66, L. '99, A	112	1	1903
Ch. 66, L. '99, R	116	27	1905
LAND COMMISSIONER—			
Contingent expenses, Sec. 5, Ch. 69, L. '01, A	78	6	1903
Salary, Sec. 2, Ch. 74, L. '99, A	69	1	1905
LAND GRANTS—			
Cebilleta de la Joya, Ch. 71, L. '74, R	46	1	1905
LANDS—			
Adverse possession, suits against, Sec. 2, Ch. 63, L. '99, A	76	1	1905

LAWFUL INDEBTEDNESS—

	Chap.	Sec.	Yr.
County and municipal, funding of, Sec. 22, Ch. 58, L. '99, A....	44	4	1901

LEONARD WOOD COUNTY—

Name of county changed to "Guadalupe," Ch. 69, L. '03, A..	20	1	1905
Peace officers, Sec. 13, Ch. 69, L. '03, R	20	3	1905

LIABILITY OF PARENTS—

Torts of children, Sec. 4, Ch. 62, L. '01, A	83	1	1901
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LIBEL—

Act to define and punish, revived, Ch. 14, L. '93, R	13	1	1905
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LICENSE—

Application for, Sec. 4154, C. L. '97, R	108	6	1901
Dealers in merchandise, Sec. 1, Ch. 108, L. '01, A	106	1	1903
Liquor, Sec. 4125, C. L. '97, A	59	1	1901
Liquor, Sec. 4124, C. L. '97, A	115	1	1905

LIMITATION OF ACTIONS—

Non-residents not included, Sec. 2921, C. L. '97, A	62	1	1903
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LIQUOR—

Sale to Indiana, Sec. 1271, C. L. '97, R	30	1	1903
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LIVE STOCK—

Impounding of, Sec. 7, Ch. 47, L. '01, A	25	1	1903
Sale of, Sec. 2, Ch. 23, L. '01, A	66	1	1901
Trespass by, Sec. 1, Ch. 28, L. '01, A	75	1	1901

LOCOMOTIVE ATTACHMENTS—

Tampering with, a felony, Sec. 1, Ch. 16, L. '97, A	41	1	1905
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LOUISIANA PURCHASE EXPOSITION—

Exhibit of products, appropriation, Ch. 100, L. '01, R.....	108	13	1903
Exhibit of products, appropriation, Ch. 100, L. '01, R.....	118	11	1903

MANDAMUS—

Final judgment reviewable, Sec. 2773, C. L. '97, A	80	8	1899
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MARRIED PERSONS—

Conveyances of, Sec. 10, Ch. 62, L. '01, A	5	4	1903
Property rights, Sec. 1509, C. L. '97, A	80	21	1899
Property rights and divorce, Secs. 1431, 1432, 1509, 1510, 1511, 1512, 1513, 3933, 3943, 3944, 3950, 3951, 3952, 3959, 3962, 3963, 3968 and 3970, C. L. '97, R	62	32	1901

MAYHEM—

Penalty, Sec. 1082, C. L. '97, A	80	7	1899
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McKINLEY COUNTY—

County indebtedness, Sec. 9, Ch. 19, L. '99, R	39	11	1901
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MEDICINE—

License to practice, Sec. 3, Ch. 18, L. '01, R	40	12	1903
Practice of, Ch. 18, L. '01, A	40	..	1903

MILITIA—

Organization and regulations, Title 25, C. L. '97, A	88	..	1901
Organization and regulations, Secs. 2249, 2253, 2262 and 2264, C. L. '97, R	88	8	1901

MINING CLAIMS—

Assessment work, Secs. 2288, 2309 and 2310, C. L. '97, R	57	2	1899
Marking boundaries, Sec. 2299, C. L. '97, A	57	1	1899

MOTIONS—

Notice, when to be served, Sub-sec. 98, Sec. 2685, C. L. '97, A..	11	1	1901
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MUNICIPAL CORPORATIONS—

Fire protection, buildings, Sub-secs. 31 and 32, Sec. 2402, C. L. '97, R	71	1	1901
Incorporation, population, Sec. 2477, C. L. '97, A	13	1	1901
Water and light plants, Sec. 1, Ch. 37, L. '99, A	34	1	1902

NEW MEXICO MILITARY INSTITUTE—

	Chap.	Sec.	Yr.
Appointment of cadets, Sec. 6, Ch. 6, L. '01, A.....	108	1	1905
Each county may send one student, Sec. 3670, C. L. '97, R.....	6	7	1901
NEW MEXICO NORMAL UNIVERSITY—			
Tuition of non-residents, Sec. 3655, C. L. '97, A	18	4	1899
NORMAL SCHOOLS—			
Diplomas considered teachers' certificates, Sec. 3659, C. L. '97, A	18	5	1899
OTERO COUNTY—			
Collection of back taxes, Sec. 9, Ch. L. '99, A	23	1	1899
OUTSTANDING INDEBTEDNESS—			
County may issue refunding bonds, Sec. 23, Ch. 58, L. '99, A	44	5	1901
PEDDLERS—			
Tax imposed, Sub-div. 1, Sec. 4141, C. L. '97, A	74	1	1901
Whom considered, Sec. 1, Ch. 74, L. '01, A	16	1	1903
PENITENTIARY COMMISSION—			
Appointment, term of office, Sec. 3491, C. L. '97, A.....	10	1	1899
PHARMACISTS—			
Unregistered, compounding prescriptions, Sec. 3718, C. L. '97, A	80	1	1905
PLEADING—			
Time for, Sec. 2935, C. L. '97, A	80	10	1899
POLL BOOKS—			
Fee for preparing, Sec. 1664, C. L. '97, R	80	22	1899
PRACTICE IN SUPREME COURT—			
Exclusive jurisdiction, when, Sec. 1, Ch. 82, L. '01, R	26	1	1903
Right of appellant in appeals, Ch. 99, L. '01, R	26	1	1903
PROBATE COURT—			
Jurisdiction, when, Sec. 928, C. L. '97, A	80	9	1899
PROBATE JUDGE—			
Appraiser to be appointed by, Sec. 19, Ch. 81, L. '01, A.....	50	1	1905
PUBLIC BUILDINGS—			
Insurance of, Sec. 1, Ch. 26, L. '99, A	107	1	1901
PUBLIC HEALTH—			
Preservation, Ch. 17, L. '01, R	103	33	1903
PUBLIC LANDS—			
Appraisement for leasing, Secs. 12 and 13, Ch. 74, L. '99, A....	69	3-4	1901
Ch. 69, (except Sec. 1), L. '01, R	111	53	1905
Ch. 74, (except Sec. 2), L. '99, R	111	53	1905
Ch. 78, L. '03, R	111	53	1905
Classification and sale, Sec. 32, Ch. 74, L. '99, A	69	13	1901
Credit of funds, Sec. 29, Ch. 74, L. '99, A	69	11	1901
Leasing of, Sec. 22, Ch. 74, L. '99, A	69	7	1901
Leasing of, Para. 2, Sec. 21, Ch. 74, L. '99, A.....	69	6	1901
Management of, Sec. 27, Ch. 74, L. '99, A	69	9	1901
Records to be kept, Sec. 6, Ch. 74, L. '99, A	69	2	1901
Running water, Para. 5, Sec. 18, Chap. 74, L. '99, A.....	69	5	1901
Sale, amount, Sec. 32, Ch. 69, L. '01, A	78	4	1903
PUBLIC LIBRARY—			
Annual tax levy, Sub-Div. 83, Sec. 2402, C. L. '97, A.....	31	2	1899
PUBLIC PARKS—			
Tax levy may be divided, Sec. 2535, C. L. '97, A	31	1	1899
PUBLIC SCHOOLS—			
Actual residents in district to attend, Sec. 1556, C. L. '97, A....	78	1	1901
Sec. 3, Ch. 119, L. '03, A	73	6	1905

QUAY COUNTY—

	Chap.	Sec.	Yr.
Third class county, Sec. 14, Ch. 69, L. '03, A.....	20	4	1905

RAILROADS—

Directors, stock, corporate powers, Secs. 3818, 3829, 3836 and 3846, C. L. '97, A	29	..	1899
Track, obstruction of, a felony, Secs. 1150, 1159, C. L. '97, A....	52	1	1905
Void contracts, Sec. 3910, C. L. '97, A	15	1	1901

REAL ESTATE—

Conveyances, husband and wife, Sec. 21, Ch. 80, L. '99, R	62	32	1901
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REFEREES—

Agreement of parties, Sub-Sec. 156, Sec. 2685, C. L. '97, A....	82	10	1901
Powers of, Sub-Sec. 152, Sec. 2685, C. L. '97, A	82	5	1901

REFUNDING INDEBTEDNESS—

Municipalities, Sec. 13, Ch. 58, L. '99, A	44	1	1901
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REGISTRATION BOARD—

Appointment and duties, Sec. 1702, C. L. '97, A	80	1	1899
Compensation, Sec. 1711, Ch. 2, C. L. '97, A	40	1	1905

REGISTRATION FOR VOTING—

When not required, Sec. 1701, C. L. '97, A	64	1	1903
When not required, Sec. 1706, C. L. '97, A	64	2	1903

REVENUE—

Sec. 32, Ch. 22, L. '99, R	100	1	1905
Secs. 5, 6, 7, 8, 9, Ch. 88, L. '03, R	100	1	1905

RIO ARRIBA COUNTY—

Dividing line between Taos county changed, Sec. 541, C. L. '97, A	11	1	1905
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RIO GRANDE—

Sec. 1, Ch. 18, L. '05, A	35	1	1905
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ROOSEVELT—

Word stricken out, Ch. 20, L. '05, A	58	1	1905
Third class county, Sec. 14, Ch. 69, L. '03, A	20	4	1905

SANDOVAL COUNTY—

Election of officers, Sec. 2, Ch. 27, L. '03, A.....	50	1	1903
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SCHOOL ATTENDANCE—

Compulsory, Sec. 1555, C. L. '97, A	39	1	1903
Compulsory, Sec. 1555, C. L. '97, provisions extended.....	42	4	1899

SCHOOL CHILDREN—

Protection of, Ch. 43, L. '01, A	92	..	1903
Protection of, Sec. 5, Ch. 3, L. '01, A	119	6	1903

SCHOOL DIRECTORS—

Borrow money, authorized to, when, Sec. 1541, C. L. '97, A....	81	1	1905
Duties, Sec. 1535, C. L. '97, A	119	10	1903
Election, Sec. 11, Ch. 80, L. '99, A	119	1	1903
Election of, notices, Sec. 1532, C. L. '97, ..A.....	80	11	1899
Power to levy tax, Sec. 1534, C. L. '97, A.....	72	1	1903
Sec. 1, Ch. 72, L. '03, A	109	1	1905
Special tax, may levy, Sec. 1543, C. L. '97, A	74	1	1903

SCHOOL FUNDS—

County treasurer to notify county superintendent, last para. Sec. 1548, C. L. '97, A	119	19	1903
Territorial auditor to keep separate account, Sec. 1540, C. L. '97, A	80	20	1899

SCHOOL SECTIONS—

Ex-United States soldiers, preference rights of, to, Sec. 30, Ch. 74, L. '99, A	90	1	1905
Leasing or sale of, Ch. 74, L. '99, A	69	12	1901

SCHOOL, PUBLIC—

	Chap.	Sec.	Yr.
Sec. 3, Ch. 119, L. '03, A	73	6	1905
SEWERS—			
Construction, assessments, bond issue, Sec. 1, Ch. 72, L. '01, A..	96	1	1903
Issue of certificates, Sec. 5, Ch. 72, L. '01, A.....	96	2	1903
SHEEP—			
Bill of sale required, Sec. 166, C. L. '97, R	33	31	1899
Inspection of, Ch. 33, L. '99, A	55	2	1903
Inspection of, dipping, Secs. 163 and 164, C. L. '97, R.....	33	31	1899
Special tax levy, Sec. 168, C. L. '97, A.....	33	21	1899
Special tax levy, Sec. 21, Ch. 33, L. '99, R	55	10	1903
Special tax levy, Sec. 168, C. L. '97, R	55	10	1903
SHEEP SANITARY BOARD—			
Appeals to, Sec. 165, C. L. '97, R	33	31	1899
Creation, Sec. 160, C. L. '97, A	55	1	1903
Organization, powers, Secs. 161 and 162, C. L. '97, R.....	33	31	1899
SHERIFFS—			
Cannot succeed himself in office, Sec. 739, C. L. '97, R	43	1	1899
Deputy, limited number, Sec. 738, C. L. '97, A	5	1	1901
Mileage of, Title 7, Ch. 10, Sec. 10, C. L. '97, A	5	1	1899
STOCK RAISERS—			
Protection of, Sec. 2, Ch. 44, L. '99, A	14	1	1905
SUITS—			
Adverse possession, Sec. 2, Ch. 63, L. '99, A	76	1	1905
SUPERINTENDENT OF PUBLIC INSTRUCTION—			
Office created, Sec. 1516, C. L. '97, A	80	18	1899
SUPERINTENDENT OF SCHOOLS—			
County, election, compensation, Sec. 1524, C. L. '97, R	80	4	1899
SURETIES—			
County officers not to become, Sec. 2, Ch. 57, L. '03, A.....	85	1	1905
SWINE—			
Running at large, penalty, Secs. 154 and 154a, C. L. '97, R.....	54	2	1901
TAOS COUNTY—			
Boundaries, Sec. 511, C. L. '97, A	52	1	1901
Dividing line between Rio Arriba county changed, Sec. 541, C. L. '97, A	11	1	1905
TAXES—			
Bounty on wild animals, special levy, Sec. 1, Ch. 80, L. '03, R..	77	1	1905
Collector to receipt, Sec. 4067, C. L. '97, A	22	11	1899
Compromising territorial suits, Sec. 2573, C. L. '97, R	22	14	1899
County commissioners to act as board of equalization, Sec. 4048, C. L. '97, A	22	5	1899
County officials to conform tax roll to assessment, Sec. 2635, C. L. '97, A	22	3	1899
County purposes, Sec. 4021, C. L. '97, A	90	10	1901
Current county expense, Sec. 4021, C. L. '97, A.....	108	9	1903
Delinquent, report, Sec. 4058, C. L. '97, R	22	13	1899
Delinquent, when, Sec. 4066, C. L. '97, A	20	10	1899
Delinquent, when and how cancelled, Secs. 4109, 4110, 4111, 4112, 4113, 4114, 4115, 4116 and 4117, C. L. '97, R	22	14	1899
Duty of assessor, Sec. 4032, C. L. '97, A	22	2	1899
Duty of collector, settlement, Secs. 4105, 4106 and 4107, C. L. '97, R	22	14	1899
Duty of county collector, Sec. 4068, C. L. '97, A	37	3	1901
Exemption of widows, Sec. 1, Ch. 95, L. '01, A	27	1	1905
Exemptions, homesteads, Sec. 1757, C. L. '97, R	22	8	1899
Exemptions, homesteads, Sec. 8, Ch. 22, L. '99, A.....	95	1	1901

TAXES—Continued.

	Chap.	Sec.	Yr.
Fiscal year, Sec. 4015, C. L. '97, A	22	7	1899
Judgment and lien, Sec. 4057, C. L. '97, A	22	6	1899
Land, how to be assessed, Sec. 4045, C. L. '97, A	22	4	1899
License, Sub-Div. 2, Sec. 4141, Sec. 4144, 4147, 4149, 4155 and 4156, C. L. '97, A	108	1-6	1901
Lien on property, Sec. 19, Ch. 22, L. '99, A	85	1	1901
Lists, clerk to make, contents, Sec. 4051, C. L. '97, A	37	1	1901
Live stock, Sec. 1, Ch. 38, L. '99, A	10	1	1901
Personal demand unnecessary, Sec. 4062, C. L. '97, A	22	9	1899
Poll, assessor not to make list, Sec. 1551, C. L. '97, R	61	3	1905
Poll, collection and disposition of, Sec. 1549, C. L. '97, A	61	1	1905
Poll, Sec. 1549, C. L. '97, A	27	5	1901
Probate clerk to notify assessor of conveyances, Sec. 3956, C. L. '97, A	22	1	1899
Real estate, procedure in tax sale, Secs. 4074, 4075, 4076, 4081, 4082, 4083, 4084, 4086, 4087, 4088, 4089, 4090, 4091, 4092, 4093, 4094 and 4102, C. L. '97, R	22	14	1899
Real estate, redemption in tax sale, Secs. 4095, 4096, 4098 and 4099, C. L. '97, R	22	14	1899
Receipts, form, Sec. 4067, C. L. '97, A	37	2	1901
Sale of tax certificates, Secs. 26 and 27, Ch. 22, L. '99, A	7	1-2	1901
School, Sec. 1537, C. L. '97, A	90	12	1901
School, Sec. 1537, C. L. '97, A	21	1	1901
School purposes, Sec. 1537, C. L. '97, A	108	10	1903
Special attorney in tax cases, Sec. 649, C. L. '97, R	22	14	1899
Suit, when to begin, Sec. 2588, C. L. '97, R	22	14	1899
Uncollected, auditor to credit each county, Sec. 4071, C. L. '97, A	22	12	1899
TEACHERS—			
Attendance at institutes, Sec. 1613, C. L. '97, A	27	4	1901
Certificates, Sec. 2, Ch. 27, L. '01, A	119	10	1903
TERRITORIAL BOARD OF EDUCATION—			
Duties, Sec. 1526, C. L. '97, A	27	2	1901
Meetings, Sec. 1514, C. L. '97, A	27	1	1901
TERRITORIAL FUNDS—			
Deemed trust funds, Sec. 28, Ch. 74, L. '99, A	69	10	1901
TERRITORIAL TREASURER—			
Bond, Sec. 1539, C. L. '97, R	80	19	1899
TORRANCE COUNTY—			
Bond issue to pay indebtedness due Valencia county, Sec. 9, Ch. 70, L. '03, A	2	5	1905
Boundaries, Sec. 1, Ch. 70, L. '03, A	2	2	1905
County seat, Sec. 2, Ch. 70, L. '03, A	2	3	1905
Second judicial district, attached to, Sec. 7, Ch. 70, L. '03, A ..	2	4	1905
TREASURER—			
Territorial			
Annual settlement, Secs. 401, 2605, C. L. '97, A	71	1	1905
Appointment, bond, etc., Sec. 2608, C. L. '97, A	69	1	1905
Bond, to give, Sec. 2606, C. L. '97, A	69	1	1905
Flood sufferers' fund, method of raising, Sec. 1, Ch. 3, L. '05, A ..	88	1	1905
TRUST COMPANIES—			
Directors, Sec. 17, Ch. 52, L. '03, A	115	1	1903
Sec. 22, Ch. 52, L. '03, A	78	2	1905
Sub-sec. 8, Sec. 3, Chap. 52, L. '03, A	89	1	1905
UNITED STATES CENSUS—			
License, to apply as to fixing rate, Sec. 4132, C. L. '97, A	87	1	1901
VACCINATION—			
Vaccinators, appropriation, Secs. 3704, 3705, and 3711, C. L. '97, R ..	17	30	1901

VOTE—	Chap.	Sec.	Yr.
Where to be cast, Sec. 1646, C. L. '97, R.....	80	3	1899
VOTES—			
County clerk to certify, Sec. 1654, C. L. '97, A	80	2	1899
WATER—			
Pollution of, penalty, Sec. 54, C. L. '97, A	79	1	1899
WATER USERS' ASSOCIATION—			
Fee for filing articles, Sec. 1, Ch. 114, L. '03, A	15	1	1905
WIDOWS—			
Exemption as heads of families, Sec. 1, Ch. 95, L. '01, A	27	1	1905

The following Sections of the Compiled Laws of 1897 have been Amended or Repealed by the Session Laws of 1899:

36 A; 54 A; 161 R; 162 R; 163 R; 164 R; 165 R; 166 R; 168 A; 211 R; 221 R; 234 A; 441 A; 443 A; 649 R; 714 R; 717 R; 739 R; 763 R; 764 R; 765 R; 766 R; 767 R; 867 sub-secs. 5, 8 and 13 A; 928 A; 1027 A; 1082 A; 1509 A; 1516 A; 1524 R; 1532 A; 1539 R; 1540 A; 1555 A; 1664 R; 1653 A; 1654 A; 1657 R; 1664 R; 1702 A; 1757 R; 2288 R; 2299 A; 2309 R; 2310 R; 2402 sub-div. 83 A; 2535 A; 2573 R; 2588 R; 2635 A; 2640 A; 2641 A; 2644 A; 2685 sub-secs. 172, 175 and 176 A; 2698 R; 2708 A; 2730 to 2737 inclusive R; 2773 A; 2935 A; 2937 A; 2938 A; 2950 A; 3403 R; 3409 R; 3413 A; 3420 A; 3491 A; 3546 A; 3541 A; 3655 A; 3659 A; 3693 A; 3777 R; 3818 A; 3829 A; 3836 A; 3846 A; 3956 A; 4015 A; 4032 A; 4045 A; 4048 A; 4057 A; 4058 R; 4062 A; 4066 A; 4067 A; 4071 A; 4074 R; 4075 R; 4076 R; 4081 R; 4082 R; 4083 R; 4084 R; 4086 R; 4087 R; 4088 R; 4089 R; 4090 R; 4091 R; 4092 R; 4093 R; 4094 R; 4095 R; 4096 R; 4098 R; 4099 R; 4102 R; 4105 R; 4106 R; 4107 R; 4109 R; 4110 R; 4111 R; 4112 R; 4113 R; 4114 R; 4115 R; 4116 R; 4117 R; prefatory chapter 7, Ch. 10, Sec. 10 A.

The following Sections of the Compiled Laws of 1897 have been Amended or Repealed by the Session Laws of 1901:

16 A; title 25 A; 92 R; 125 A; 145 R; 146 R; 147 R; 148 R; 149 R; 150 R; 151 R; 154 R; 154 (a) R; 241 A; 260 A; 301 A; 511 A; 738 A; 1431 R; 1432 R; 1477 A; 1509 R; 1510 R; 1511 R; 1512 R; 1513 R; 1514 A; 1526 A; 1537 A; 1549 A; 1556 A; 1613 A; 1654 R; 1655 R; 1831 R; 1832 R; 1833 R; 1834 R; 1938 R; 1939 R; 1941 R; 1943 A; 1945 R; 1946 R; 1955 R; 1961 R; 2005 A; 2023 R; 2030 R; 2031 R; 2249 R; 2253 R; 2262 R; 2464 R; 2402 sub-secs. 31 and 32 R; 2477 A; 2640 R; 2541 R; 2642 R; 2643 R; 2644 R; 2645 R; 2646 R; 2685 sub-secs. 39, 98, 104, 152 and 156 A; 3016 A; 3107 R; 3108 R; 3109 R; 3345 A; 3420 A; 3468 R; 3469 R; 3470 R; 3471 R; 3479 R; 3670 R; 3704 R; 3705 R; 3711 R; 3910 A; 3933 R; 3943 R; 3944 R; 3950 R; 3951 R; 3952 R; 3959 R; 3962 R; 3963 R; 3968 R; 3970 R; 4021 A; 4051 A; 4067 A; 4068 A; 4125 A; 4132 A; 4141 sub-divs. 1 and 2 A; 4144 A; 4147 A; 4149 A; 4154 R; 4155 A; 4156 A.

The following Sections of the Compiled Laws of 1897 have been Amended or Repealed by the Session Laws of 1903:

8 A; 9 A; 10 A; 11 A; 12 R; 13 A; 13 R; 24 A; 30 R; 31 R; 32 R; 33 R; 34 R; 35 R; 36 R; 37 R; 38 R; 49 R; 160 A; 168 R; 197 A; 200 A; 223 A; 445 A; 446 A; 598 R; 599 R; 600 R; 601 R; 602 R; 603 R; 604 R; 605 R; 606 R; 607 R; 608 R; 609 R; 610 R; 611 R; 612 R; 1067 A; 1271 R; 1534 A; 1535 A; 1537 A; 1543 A; 1548 3rd Para. A; 1548 last Para. A; 1555 A; 1613 A; 1633 A; 1701 A; 1706 A; 2052 A; 2053 A; 2402 sub-sec. 82nd R; 2402 sub-sec. 92nd A; 2685 sub-sec. 175 A; 2021 A; 3041 A; 3043 A; 3052 A; 3053 R; 3054 R; 3055 R; 3721 A; 3722 A; 3850 sub-div. 2 A; 4021 A.

The following Sections of the Compiled Laws of 1897 have been Amended or Repealed by the Session Laws of 1905:

182 A; 401 A; 411-156 R; 481 A; 541 A; 630 A; 807, 808, 809, 810, 811, 812, 813, 816, 817 R; 1101, 1102 R; 1108 R; 1150, 1159 A; 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367 R; 1541 A; 1549 A; 1550 A; 1551 R; 1711 A; 1746 A; 1823 A; 1824 A; 1870 A; 2115 R; 2117 R; 2118, 2119, 2120, 2121, 2123, 2124, 2125, 2126, 2128, 2128, 2130, 2131, 2132, 2123, 2134, 2135 R; 2123, 2124, 2125, 2126, 2128, 2129, 2130, 2131, 2132, 2123, 2134, 2135 R;

The following Sections and Chapters of the Session Laws of 1899 have been Amended or Repealed by the Session Laws of 1901:

Ch. 11 A; Ch. 12 R; Sec. 9, Ch. 19 R; Sec. 8, Ch. 22 A; Sec. 19, Ch. 22 A; Secs. 26 and 27, Ch. 22 A; Sec. 1, Ch. 26 A; Ch. 32 A; Ch. 34 R; Secs. 1, 12, 13, 14, 15, 22, 23 and 24, Ch. 58 A; Sec. 29, Ch. 58 R; Secs. 2, 5, 6, 12, 13, 18, l'ara. 5, 21, Para. 2, 22, 23, 27, 28, 29, 30, 32, 33 and 34, Ch. 74 A; Sec. 8, Ch. 75 A; Secs. 3 and 4, Ch. 77 R; Sec. 5, Ch. 77 A; Secs. 1 and 3, Ch. 78 A; Sec. 21, Ch. 80, R.

The following Sections and Chapters of the Session Laws of 1899 have been Amended or Repealed by the Session Laws of 1903:

Sec. 31, ch. 33, R; Sec. 1, Ch. 37, A; Ch. 51, R; Secs. 1, 2, 5 and 11, Ch. 66, A; Sec. 11, Ch. 80, A.

The following Sections and Chapters of the Session Laws of 1899 have been Amended or Repealed by the Session Laws of 1905:

Sec. 1, Ch. 4, A; Sec. 32, Ch. 22, R; Sec. 2, Ch. 44, A; Sec. 2, Ch. 63, A; Ch. 66, R; Ch. 74, (except Sec. 2) R; Sec. 6, Ch. 75, R.

The following Sections and Chapters of the Session Laws of 1901 have been Amended or Repealed by the Session Laws of 1903:

Sec. 5, Ch. 3, A; Ch. 10, A; Ch. 17, R; Ch. 18, A; Sec. 3, Ch. 18, R; Sec. 2, Ch. 27, A; Ch. 43, A; Sec. 7, Ch. 47, A; Sec. 10, Ch. 62, A; Ch. 64, R; Sec. 1, Ch. 67, A; Secs. 1 and 5, Ch. 72, A; Sec. 1, Ch. 74, A; Sec. 16, Ch. 81, A; Sec. 1, Ch. 82, R; Sec. 7, Ch. 82, A; Sec. 5, Ch. 84, A; Sec. 11, Ch. 90, A; Ch. 99, R; Ch. 100, R; Sec. 1, Ch. 108, A.

The following Sections and Chapters of the Session Laws of 1901 have been Amended or Repealed by the Session Laws of 1905:

Sec. 6, Ch. 6, A; Ch. 15, R; Ch. 26, R; Sec. 6, Ch. 27, R; Sec. 2, Ch. 28, R; Sec. 1, Ch. 29, A; Ch. 69, (except section 1), R; Sec. 1, Ch. 77, A; Sec. 6, Ch. 81, A; Sec. 19, Ch. 81, A; Sec. 1, Ch. 95, A; Ch. 106, R.

The following Sections and Chapters of the Session Laws of 1903 have been Amended or Repealed by the Session Laws of 1905:

Sec. 1, Ch. 5, A; Secs. 6, 11, 14, 15, 16, 18, Ch. 48, R; Sub-sec. 8, Sec. 3, Ch. 52, A; Sec. 22, Ch. 52, A; Sec. 2, Ch. 57, A; Ch. 69, A; Secs. 1, 2, 7, 9, Ch. 70, A; Sec. 1, Ch. 72, A; Sec. 1, Ch. 73, A; Ch. 78, R; Sec. 1, Ch. 80, R; Secs. 5, 6, 7, 8, 9, Ch. 88, R; Sec. 4, Ch. 97, A; Sec. 1, Ch. 114, A; Secs. 1, 2, Ch. 114, A; Sec. 3, Ch. 119, A; Sec. 1, Ch. 120, A.

The following Sections and Chapters of the Session Laws of 1899 have been Amended or Repealed by the Session Laws of 1899:

Sec. 9, Ch. 3, A; Secs. 2 and 3, Ch. 9, A.

The following Sections and Chapters of the Session Laws of 1901 have been Amended or Repealed by the Session Laws of 1901:

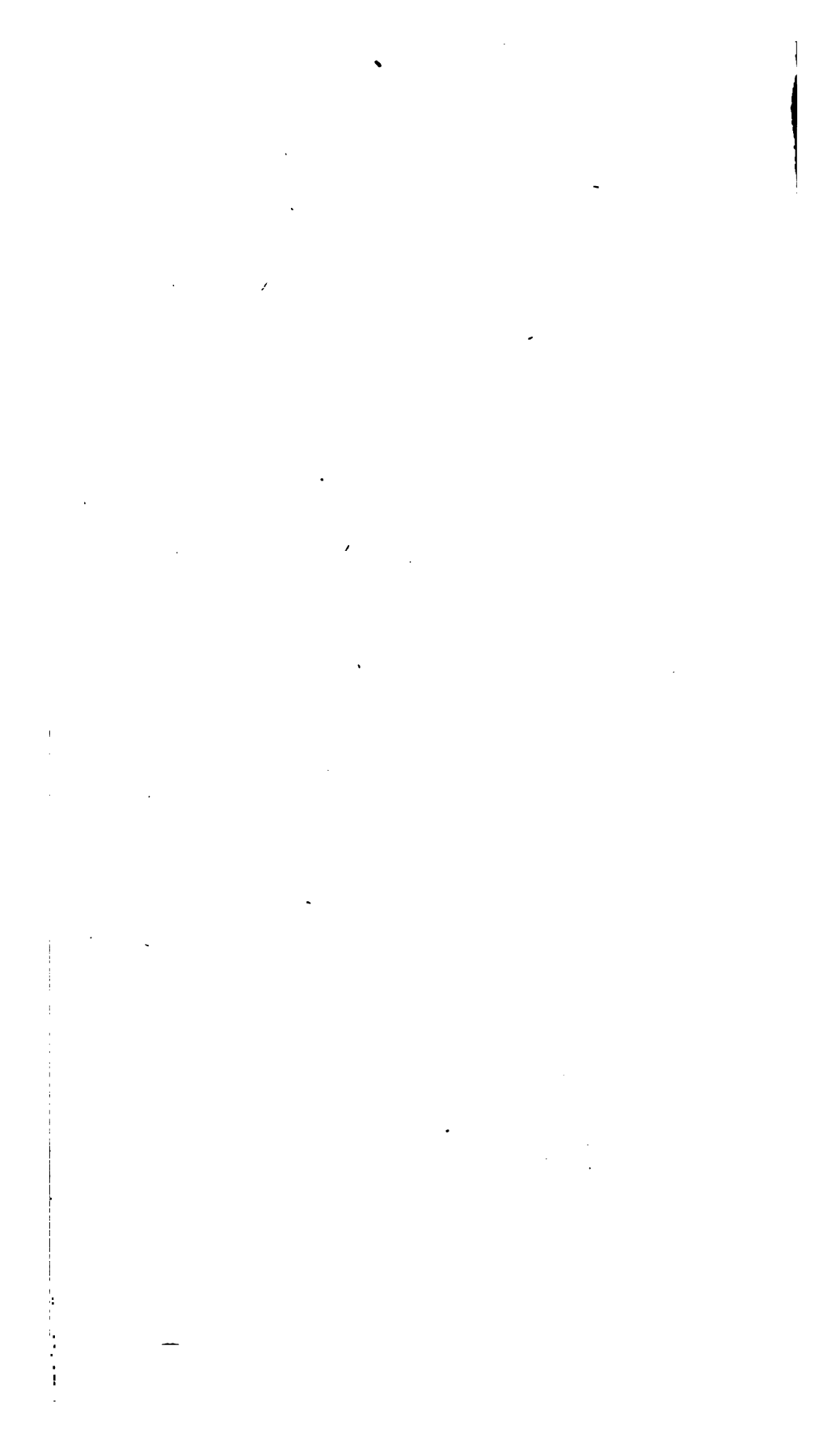
Sec. 2, Ch. 23, A; Sec. 1, Ch. 28, A; Sec. 4, Ch. 62, A.

The following Sections and Chapters of the Session Laws of 1903 have been Amended or Repealed by the Session Laws of 1903:

Ch. 9, provisions extended; Secs. 1, 2, and 3, Ch. 9, A; Secs. 2 and 3, Ch. 27, A; Sec. 1, Ch. 46, A; Sec. 17, Ch. 52, A.

The following Sections and Chapters of the Session Laws of 1905 have been Amended or Repealed by the Session Laws of 1905:

Sec. 1, Ch. 3, A; Sec. 9, Ch. 5, A; Sec. 18, Ch. 5, A; Sec. 25, Ch. 5, A; Sec. 31, Ch. 5, A; Sec. 1, Ch. 18, A; Ch. 19, A; Ch. 20, A; Ch. 66, A; Sec. 11, Ch. 70, .



INDEX

A

	Chap.	Sec.	Page
ABETTOR—			
Principal, when deemed	52	1	103
When considered principal, Sec. 1, Chap. 16, L. '97, A.....	41	1	82
ACEQUIAS—			
Indians, when required to work, Sec. 1, Ch. 29, L. '01, A.....	36	1	78
ADJUTANT GENERAL—			
Assistant	101	15	232
Duties of	101	15	232
Office	101	24	265
Salary, appropriation for	112	5	311
See "National Guard."			
ADMINISTRATORS AND EXECUTORS—			
Appraiser to be appointed by, Sec. 19, Ch. 81, L. '01, A	50	1	98
Failure to begin or defend suit, procedure, Sec. 6, Ch. 81, L. '01	131	1	365
ADVERSE POSSESSION—			
Definition of, Sec. 2, Ch. 63, L. '99, A	76	1	139
Suits, when to be commenced, Sec. 2, Ch. 63, L. '99, A	76	1	139
AGRICULTURAL DEPARTMENT—			
Dipping live stock to be under supervision of	31	6	72
Live stock, inspectors of, appointed by Cattle Sanitary Board, when	31	5	72
ANIMALS—			
Evidentiary value of recorded contracts pertaining to	38	3	80
Trespass by, penalty clause repealed	130	1	365
ANTELOPE—			
Killing unlawful, when	51	2	100
APPEALS—			
Condemnation proceedings, when allowed	97	8	220
Exemption cases	82	5	195
APPRAISERS—			
Appointment of, Sec. 19, Ch. 81, L. '01, A	50	1	98
Compensation, Sec. 19, Ch. 81, L. '01, A	50	1	98
APPROPRIATIONS—			
Additional pay for regular capitol employes, J. R. No. 12.....	..	..	376
Assistant attorney general, salary	112	5	311
Bureau of immigration, incidental expenses	112	11	315
Capitol building employes, fuel and light, repairs, water	112	12	317
Charitable Institutions—			
Geological survey transferred to insane asylum	112	2	310
Maintenance	112	3	311
Clerk of district court, pay	112	13	317
Contingent expenses of legislature, J. R. No. 1 .....	..	..	370
DEFICIENCIES—			
Abbott, A. J.	112	15	320
Board of Public Lands	112	15	319
Duncan, James S.	112	15	321

APPROPRIATIONS—Continued—

	Chap.	Sec.	Pag.
Game and fish warden	112	15	321
Hughes, James D.	112	15	321
Larson, Lars M.	112	15	319
Louisiana Purchase Exposition Board	112	15	319
Olsen, Miss Clara	112	15	319
Ortiz, Faustin	112	15	319
Publication U. S. Geological Survey reports	112	15	321
Rents for armories	112	15	319
Robinson, C. A.	112	15	319
Statehood committee, expenses	112	15	321
Stephens, E. W.	112	15	320
Traveling auditor	112	15	321
Wild animal bounties	112	15	318
Elephant Butte Water Users' Association	57	1	110
Expenses joint committees to inspect institutions, J. R. No. 7.. ..	..	..	373
Extended to 58th fiscal year	112	17	321
Fees of district court clerk	112	13	317
Flood Sufferers Relief Fund—			
Albuquerque dyke, for construction of	3	9	9
Counties, for relief of sufferers in	3	5	7
Hillsboro dyke, for construction of	3	12	10
San Marcial dyke, for construction of	3	11	10
Socorro dyke, for construction of	3	10	9
Insurance—			
Capitol building	112	12	317
Deficiency on library	112	12	317
Library	112	12	317
Interest on bonded indebtedness	112	1	309
Land Commission—			
Commissioner of public lands, salary	112	14	318
Office expenses	112	14	318
Militia Fund—			
National Guard, support	112	8	313
Armories, rent of	112	8	313
Miscellaneous Fund—			
Auditor's office, incidental expenses	112	11	314
Citizens of Chaves county, relief of	112	11	316
Game and fish warden, incidental expenses	112	11	315
Governor's office, contingent expenses	112	11	314
Laws and journals, printing of	112	11	315
New Mexico Historical Society	112	11	314
Printing and distribution of the revenue laws	112	11	316
Printing poll books, registration books, etc	112	11	315
Printing tax books and schedules	112	11	315
Secretary's office, contingent expenses	112	11	315
Sheriff's, per diem and other expenses	112	11	315
Summer school at Normal University	112	11	316
Supt. of public instruction's office, contingent expenses	112	11	315
Superintendent of insurance, contingent expenses	112	11	316
Translating laws and journals	112	11	315
Traveling auditor's office, contingent expenses	112	11	315
Traveling auditor, printing	112	11	315
Treasurer's office, incidental expenses	112	11	314
Weather bureau, printing	112	11	315
New Mexico mounted police, contingent expenses of	9	15	34
Pay of officers and clerks after adjournment, J. R. No. 11.....	..	..	375

APPROPRIATIONS—Continued—

Chap. Sec. Pag.

Penitentiary—

Pay of officers and maintenance	112	4	311
Protection of residents of the Mimbres Valley	112	14	318
Provision in case legislature fails to pass appropriation bill ..	112	20	322
Purchase of bust of Col. J. F. Chaves, J. R. No. 13 .....	..	..	377
Re-imbursement of penitentiary for brick furnished	112	4	311
Reward for assassins of Col. J. F. Chaves, J. R. No. 4 .....	..	..	371
Salary of clerk of sixth judicial district	1	2	1
Salary and expenses of judge sixth judicial district	1	1	1

Supreme Court Fund—

Expenses of attorney general	112	5	311
Expenses of sheriffs transporting prisoners	112	6	313
Forwarding election returns	112	7	313
Printing dockets and calendars	112	5	311
Surplus to be credited to following year	112	16	321
Territorial institutions, maintenance	112	2	310
Territorial library, Sec. 4, Ch. 97, L. '03, A	112	10	314
Territorial library, printing, binding and delivery	112	9	314
Territorial officers, salary	112	5	311
Territorial purposes, levy for	112	19	322
Treasurer's monthly pro rata	112	18	332

ARREST—

Persons violating, Secs. 1133, 1134, C. L. '97	94	1	120
------------------------------------------------------	----	---	-----

ARSON—

Definition	29	1-2	68
Punishment	29	1-3	68
Secs. 1101, 1102 and 1108, C. L. '07, R	29	3	68

ARTESIAN WELLS—

See "Wells, Artesian."

ASSESSMENTS—

Collection of, when to be suspended	18	14	52
Crossings, lien on property in district	6	6-7	25
Irrigation companies, when to make	102	39	282
Street and alley crossings	6	5	25
Work upon mining claims	83	1	196

ASSESSORS—**County—**

Compensation of	60	10	115
Fees, property bought by county for taxes	134	2	369
Itinerant vendors, to apply for license from	107	2	289

ATTORNEYS, DISTRICT—

See "District Attorneys."

ATTORNEY GENERAL—

Expenses, appropriation for	112	5	311
Salary, appropriation for	112	5	311
Salary of assistant, appropriation for	112	5	311
Title of solicitor general abolished	118	1	339

AUDITOR, TERRITORIAL—

Appointment, Sec. 2608, C. L. '97, A	69	1	130
Bond, to give	69	1	130
Elephant Butte Water Users' Association, appropriation, to draw warrant	57	2	111
Flood Sufferers Relief Fund, to levy tax for	3	2	6
Incidental expenses, appropriation for	112	11	314
Mounted police, warrant for pay of	9	12	33

AUDITOR, TERRITORIAL—Continued—

	Chap.	Sec.	Page
Office to be kept at capital, Sec. 2608, C. L. '97, A	69	1	130
Salary, appropriation for	112	5	311
U. S. Land office fees, to levy tax for	111	50	307
Traveling—			
Appropriation for contingent expenses	112	11	315
Appropriation for printing	112	11	315
Counties, to classify, when	60	7	125
Deficiency appropriation	112	15	321
Salary, appropriation for	112	5	311

B**BEAVER—**

Killing unlawful, penalty	51	1	99
---------------------------------	----	---	----

BEE—

Allowing to remain infected, a misdemeanor	43	2	85
Complaint as to foul brood	43	3	85
Disinfection	43	1	85
Foul brood, duty to keep free from	43	1	85
Jurisdiction of justice of the peace in case of infectious disease	43	5	86
Nuisance, justice of the peace may declare, when	43	4	85

BERNALILLO COUNTY—

Appropriation for flood sufferers	3	5	7
District for district attorney purposes	33	1	74
Indebtedness, Sandoval county to levy account of	10	8	37
Mandamus to enforce payment of, from Sandoval county....	10	10	38
Salary of district attorney	33	3	75
Special levy, Sandoval county to turn over when collected....	10	9	38
Time of holding district court	132	1	367

BICYCLES—

Penalty for violating law prohibiting riding	86	2	198
Unincorporated towns, riding prohibited, how	86	1	193

BOARD OF EDUCATION—

Bonds—			
Denominations	74	3	135
Interest	74	3	135
Levy to pay interest on	74	4	136
Maturity	74	3	135
To issue, when	74	2	135
Debts contracted by, validity of	74	1	135
Teacher's certificates, to issue	73	1	133

BOARDS OF EQUALIZATION—

Salary, appropriation for	112	5	311
---------------------------------	-----	---	-----

BOARD OF OSTEOPATHY—

Appointment	68	1	128
Certificates to issue on certain conditions	68	7	128
Compensation	68	4	128
Expenses	68	3	128
Fees	68	6	128
Meetings	68	2	128
Organization	68	2	128
Powers and duties	68	5-7	128
Qualifications	68	1	128
Term of office	68	1	128
Violations of act creating	68	8	129

	Chap.	Sec.	Page
BOARD OF PUBLIC LANDS—			
School sections, Sec. 30, Ch. 74, L. '99, A	90	1	205
See also "Lands, Public."			
BOARDING OF PRISONERS' FUND—			
Creation of	8	2	30
BOB-WHITE QUAIL—			
Killing unlawful, when, penalty	51	2	100
BONDS—			
Fidelity and Indemnity—			
Irrigation engineer to give	102	13	274
Maximum price	106	3	288
Municipal and county treasurers	106	2	287
Of territorial officials, etc., to be filed with secretary	59	1	113
Supercedens	114	4	324
Territorial and county officials	10	6-7	287
Treasurer of board of river commissioners to give	18	7	50
Trust companies to furnish, when	106	1	287
Indebtedness—			
Boards of education may issue, when	74	2	135
Counties—			
Luna, commissioners to issue	87	3	200
Delivery to Grant and Dona Ana counties	87	8	201
Form to be issued	87	4	200
Levy to pay interest	87	6	200
Purchase of outstanding	87	9	201
Record of issue	87	5	200
Sinking fund, provisions for	87	7	201
Insane Asylum—			
Cancellation	75	6	138
Form prescribed	75	2	137
Issuance for	75	1	136
Levy to pay interest	75	3	137
Redemption	75	4	137
Sinking fund, creation of	75	4	137
Investment of	75	5	138
Sale, proceeds of	75	7	138
School House—			
Directors to issue, when	81	1	193
School—			
Denomination	74	3	135
Interest	74	3	135
Levy to pay interest	74	4	136
Maturity	74	3	135
BOUNDARIES—			
Cultivated lands	2	55	107
BOUNDARY LINES—			
Counties—			
Rio Arriba, changed	11	1	39
Sandoval, changed	10	2	35
Taos, changed	11	1	39
Torrance, changed	2	2	3
BOUNTIES—			
Wild Animals—			
Amount to be paid, Sec. 1, Ch. 80, L. '03, R	77	1	140
Deficiency appropriation	112	15	318
Levy, Sec. 1, Chap 80, L. '03, R	77	1	140
Wild animal bounty sinking fund, Sec. 1, Ch. 80, L. '03, R ..	77	1	140

BRANDS—	Chap.	Sec.	Pag.
Live stock with unrecorded, penalty	95	5	212
Marks, records to be preserved by butchers	14	2	42
Record, duty to	95	1	211
Unrecorded, when evidence of guilt	95	6	212
Live stock with, to be seized	95	2	211
BRASSES—			
Tampering with, a felony	41	1	82
Sec. 1, Ch. 16, L. '97, A	41	1	82
BRIDGES—			
Tax levy for construction of	56	1	108
BUREAU OF ANIMAL INDUSTRY—			
Inspector's permit to trail sheep out of Indian reservation....	42	2	83
BUREAU OF IMMIGRATION—			
Appropriation for incidental expenses	112	11	315
For salary and expenses	112	5	311
Compensation, Sec. 1870, C. L. '97, A	110	1	291
Term of members, Sec. 1870, C. L. '97, A	110	1	291
Vacancies, Sec. 1870, C. L. '97, A	110	1	291

C

CAPITOL BUILDING—			
Appropriation for insurance	112	12	317
CATTLE—			
Buying, when a felony	38	2	80
On shares, penalty for disposition, without owner's consent	38	1	79
CATTLE ROPING EXHIBITION—			
Concurrent jurisdiction of justices of peace	32	3	74
Illegality of	32	1	75
Penalty for participating in	32	2	74
CATTLE SANITARY BOARD—			
Agricultural department to approve of appointment of inspectors, when	31	5	72
Brands to be recorded with	95	1	211
Certificates of treatment to be issued by	31	6	72
Compensation of inspector	31	4	71
Compensation of secretary	30	2	70
Contagious diseases, to control and eradicate	31	1	70
Dipping regulations, to be complied with	31	2	71
Districts for infected live stock to be created	31	1	70
Duties of inspector	31	4	71
Fee for dipping	31	6	72
Fee for recording brands	30	1	69
Indemnity fund	30	1	69
Infected live stock to be seized for treatment	31	3	71
Inspector to seize stock with unrecorded brands	95	2	211
Inspector to be employed	31	4	71
Lien on live stock dipped	31	7	72
Mange or scabies, to control and eradicate	31	1	70
Members, qualifications, Sec. 182, C. L. '97, A	49	1	97
Notice of infected districts created	31	2	71
Notice of sale to be published by secretary	95	4	212
Quarantine of infected live stock	31	1	70
Reorganization, Sec. 182, C. L. '97, A	49	1	97
Secretary to keep record of expenditures, account of dipping	31	7	72
Secretary to be notified of cattle seized	95	3	211
Secretary to receive fees for recording brands	30	1	69

			Chap.	Sec.	Pag.
CATTLE SANITARY BOARD—Continued—					
Term of members, Sec. 182, C. L. '97, A	49	1			97
Vacancies, Sec. 182, C. L. '97, A	49	1			97
Violations of dipping regulations, penalty for	31	8			73
CEBOLLETA DE LA JOYA GRANT—					
See "Land Grants."					
CERTIFICATES—					
Teachers, board of education to issue	73	1			133
CHAVES COUNTY—					
Appropriation for relief of citizens of	112	11			316
District for district attorney purposes	33	1			74
Time of holding district court	4	1			11
CITY ENGINEERS—					
Street crossings, to estimate cost of constructing	6	1			24
CITIES—					
See "Corporations, Municipal."					
CIVIL ENGINEERS—					
Plans for dykes to be submitted by	19	2			54
Streams, to examine	19	2			54
CLERKS—					
City—					
Lien for crossing improvements, to attest	6	6			25
District Court—					
Fees	112	13			317
Improper placing of names upon jury venire, penalty	116	22			337
Jury wheel, county commissioners to furnish	116	6			331
Duty to protect	116	6*			331
Insertion of names in	116	8			332
List of names drawn from, duty to keep	116	11			333
Publication of process, to make	121	1			341
Salary	112	13			317
Appropriation for	112	5			311
Sixth judicial district	1	2			1
United States cases, duty as to jury lists	116	15			334
Probate, and Ex-officio Recorder—					
Ballots for elections, to print	127	3			357
Fee for issuing marriage license and recording certificate..	65	6			121
Irrigation engineer, transcript of record to be forwarded to	102	21			277
Itinerant Vendor—					
Duty to issue license to	107	3			289
To license	128	..			358
Lien for crossing improvements to be recorded with.....	6	6			25
Marriage certificates, to record	65	4			121
Licenses, to issue	65	2			121
Owners of artesian wells to file sworn statement with	17	10			48
Roads public, duties as to	124	8			346
Salaries of	60	4			114
In counties of different classes	117	1			338
Township plats to remain on file with	103	2			284
Unappropriated waters, statement of intention to divert to					
be filed with	104	1			284
Violation of marriage license act, a misdemeanor	65	9			123
Supreme Court—					
Salary, appropriation for	112	5			311
Transcript of record to be filed with, when	114	3			324

	Chap.	Sec.	Page
COAL OIL—			
Act providing for inspection of, amended	122	1	343
License not required for sales of original packages	125	1	354
Original packages not subject to license, provisions, Ch. 50, L. '99, A	125	1	354
COAL OIL INSPECTOR—			
Appointed, how	66	1	124
Bond, to give	66	2	125
Coal oil, gasoline, naptha, etc., to inspect	66	1	124
Deputies, may appoint	66	2	125
Duties of	56	1-3	124
Failure to perform duties, malfeasance	66	7	126
Fees of inspection	66	3	125
Packages containing oil, etc., to mark	66	1	124
Reports, to make	66	3	125
Standard for oils, etc.	66	6	125
Term of	66	1	124
Violations of act, penalties	66	6-7	126
COLFAX COUNTY—			
Appropriation for flood sufferers	3	5	7
District for district attorney purposes	33	1	74
Salary of district attorney	33	3	75
Time of holding district court	126	1	355
COLLECTOR, COUNTY—			
See "Treasurer, County."			
COMMISSION OF IRRIGATION—			
Abolished	111	50	308
Board of public lands, unfinished business, to be turned over to	111	51	308
COMMISSIONER OF PUBLIC LANDS—			
Appropriation for salary	114	14	318
See also "Public Lands."			
COMMISSIONERS—			
River—			
Adjoining county, board authorized to enter, when	18	15	52
Aggregate amount of labor required by	18	4	49
Collection of assessment to be suspended, when	18	14	52
Compensation for services	18	7	50
Condemnation of material for protection of property	18	8	51
Direction of labor to be under supervision	18	6	50
Election of, along Rio Grande	18	1	49
Entry on private land by, trespass, when	18	13	52
Labor of able-bodied men required by	18	5	50
Meetings of board	18	12	52
Moneys collected to be turned over to treasurer	18	7	50
Notice of labor required of property owners	18	4	49
To be given on labor required	13	5	50
Oath of office	18	1	49
Organization	18	7	50
Penalty for refusal to furnish labor ordered by	18	10	52
Pro rata amount of labor required, determined by	18	6	50
Quorum for transaction of business of board	18	12	53
Secretary, duties of	18	7	50
Secs. 807-817, C. L. '97, R	18	16	52
Treasurer, duties of	18	7	50
County—			
Vacancy on board of river commissioners, filled by	18	9	51

COMPENSATION—	Chap.	Sec.	Pag.
Officers serving notice of flood service, amount	19	8	51
Parties rendering service at floods to receive, when	19	7	50
CONDEMNATION PROCEEDINGS—			
Appeal to district court, when allowed	97	8	220
Appointment of commissioners	97	3	219
Assessment of damages	97	3	219
Compensation of commissioners	97	7	220
Corporation property, limitation of right to appropriate.....	97	12	221
Costs, by whom paid	97	7	220
Damages ascertained, who may have	97	11	221
Defective title, how cured	97	16	222
Depot sites	97	14	222
Dyke sites	19	6	55
Entry, when authorized	97	18	223
Expenses of commissioners	97	7	220
Interest on compensation and damages	97	9	221
Land grants	97	19	223
Lands lying in more than one county, how damages assessed...	97	12	221
Logging and lumber companies	97	20-21	224
Measure of compensation, when to be ascertained	97	9	221
New appraisalment, when to be made	97	6	220
Payment upon assessments, how made	97	17	222
Pending of litigation, possession of property during	97	18	222
Powers of court	97	13	221
Petition to district court	97	1	217
Public service companies	97	1	217
Review of commissioners' report	97	6	220
Separate assessment of damages	97	4	219
Service of notice	97	2	218
Subsequent proceedings, effect of	97	6	220
Telephone and telegraph companies, prohibition against enter- ing certain buildings	97	10	221
Trial on appeal, manner of	97	8	220
Various purposes for which property may be condemned.....	97	15	222
Who may plead and defend	97	5	212
CONSTRUCTION CAMPS—			
Sale of liquor within 3 miles of, when prohibited	115	3	327
CONTRACTS—			
Against public policy, Ch. 15, L. '01, R	113	1	322
Live stock, evidentiary value of	38	3	80
CORPORATIONS—			
Charitable—			
Consolidation of	99	1	225
General—			
Abatement of actions, dissolution does not effect	79	66	167
Death of receiver does not effect	79	86	183
Absent stockholders may vote by proxy	79	17	148
Acknowledgement of certificate of incorporation	79	8	145
Additional powers	79	2	143
Address of company's New Mexico office to be stated in all certificates, etc.	79	49	162
Adjournment of meetings	79	46	159
Administrator may vote	79	42	158
Agents, power to appoint	79	13	147
To furnish schedule of property and debts to officer having execution	79	68	168

CORPORATIONS—Continued—

	Chap.	Sec.	Page
Agent, name of, to be stated in all certificates	79	49	168
Of foreign corporation, to be designated	79	102	178
Agreement of merger or consolidation to be filed	79	110	181
Submitted to stockholders	79	110	181
Amendments of act to be part of every charter	79	4	144
Of certificate of incorporation before payment of capital..	79	29	152
After organization	79	30	152
May be made by vote of less than two-thirds of stock, when	79	17	148
Fees on filing certificates of	79	119	186
Annual election of directors	79	12	146
Report	79	48	160
Assent of stockholders to changes	79	30	152
Assessments on stock	79	24	151
Proceeding on non-payment of	79	25	151
Assets of insolvent corporation, distribution of	79	92	175
Laborer's lien upon	79	89	174
Assignment of property after insolvency void	79	71	168
Attachment, of shares of stock	79	130	190
Enforcement of prerogative writ against foreign corpora- tions, by	79	107	180
See also "Foreign Corporations."			
Attorney general, to sue for failure to file report	79	48	160
For failure to publish articles	79	135	192
Unauthorized foreign corporations	79	105	179
Ballot, elections to be by	79	38	157
Banking franchise cannot be sold	79	88	174
Powers prohibited	79	5	144
Provisions of this act apply how	79	132	191
Bonds, converting into common stock	79	19	149
May be issued below par	79	56	164
Of other corporations may be held by any corporation..	79	58	165
Power to issue	79	1	143
Books (except stock and transfer) may be kept out of territory	79	50	162
Stock, only evidence of right to vote	79	45	159
Stock, to be open to inspection	79	37	156
Kept in principal office in New Mexico	79	37	156
Penalty for refusal to exhibit	79	37	156
Transfers to be made on	79	37	156
Building and loan associations not to be formed under this act..	79	5	144
Provisions of this act apply how	79	132	191
Business of corporation to be managed by directors	79	11	146
May be carried on outside of New Mexico	79	6	144
May not be begun with preferred stock only	79	18	149
By-laws, amendment and alteration of	79	10	146
Breach of, penalty for	79	1	143
Corporations organized under other acts may fix method of altering	79	31	153
May designate date for election of directors	79	46	159
Determine number of shares to be held by directors ..	79	44	159
Fix date for declaring dividends	79	53	164
Prescribe manner of filling vacancies	79	14	147
Provide for keeping certain books outside of territory..	79	50	163
Regulation of corporate affairs	79	1	143
Regulation of voting at election	79	41	158
To regulate transfers of stock	79	21	150
Call of stockholders' meeting by stockholders	79	52	163
First meeting	79	15-16	147
Candidate for director not to be judge, etc., of election	79	39	157

CORPORATIONS—Continued—

	Chap.	Sec.	Pag.
Capital, amount with which company begins business	79	7	145
Certificate as to payment of	79	27	151
If withdrawn without notice, directors liable	79	34	154
Not fully paid up, stockholders liable to creditors	79	22	150
No stockholders liability, when	79	23	150
To be paid in money	79	54	164
May be paid in property	79	55	164
In services, when	79	57	165
Stock, see "Stock."			
Certificate of Incorporation, amendment of	79	29-31	152
Authentication, record and filing of	79	8	145
Certified copy must be published	79	135	192
Contents of	79	7	145
Evidence, certified copy is	79	8	145
Existence, corporate, begins on filing	79	9	146
Fees for filing	79	119	186
Foreign corporation, of, must be filed	79	102	178
May provide for cumulative voting	79	40	158
Must contain address of New Mexico office and name of agent	79	49	162
Must be consistent with act	79	7	145
Must be executed, recorded and filed	79	8	145
Must be signed by at least three persons	79	5	144
Must contain names and addresses of incorporators	79	7	145
Certificate of authority to foreign corporation	79	102	178
Change of name, etc.	79	30	152
Change of location of principal office	79	32	153
Designation of agent, by foreign corporation	79	104	179
Dissolution	79	67	167
Extension of corporate existence	79	30	152
Payment of capital stock	79	27	151
Relinquishment of branch of business	79	31	153
Surrender of corporate rights and franchises	79	36	156
Certificates, false, render officers making such liable for debts	79	59	166
Certificate of stock. See "Shares," "Stock."			
Change of location of office	79	32	153
Nature of company's business	79	31	153
Charter, company formed by, has powers given by this act	79	2	143
Subject to alteration, suspension or repeal	79	3	144
Power of legislature to alter, etc., limited	79	4	144
May be annulled by court	79	50	163
Charter, may be renewed	79	30	152
Of foreign corporation to be filed here	79	102	178
See also, "Certificate of incorporation."			
Claims against insolvent corporations may be tried by jury....	79	83	172
Classes of stock	79	18	148
Classification of directors	79	11	146
Collateral security, transfer of stock for	79	21	150
Voting on stock pledged as	79	42	158
Common seal, power to make and alter	79	1	143
Compensation of officers and agents	79	1	143
Receivers	79	91	175
Consolidation of Corporations	79	109	180
See also "Merger."			
Construction Companies may take stock or bonds in payment ..	79	57	165
Conveyance of property, power to make	79	1	143
After insolvency, void	79	71	168

CORPORATIONS—Continued—

	Chap.	Sec.	Page
Corporate existence begins on filing certificate	79	9	146
Continuance of	79	1	143
Continued for winding up business	79	60	186
May be extended	79	30	152
Funds; see "Treasurer."			
Name	79	7	145
Rights and franchises may be surrendered	79	36	156
Court has jurisdiction of questions arising on dissolution	79	64	167
May appoint receiver of insolvent corporation	79	72	169
Dissolved corporation	79	63	167
Referee	79	78	171
Declare charter forfeited, when	79	50	163
Declare charter of insolvent corporation void	79	76	170
Investigate complaints touching elections	79	47	159
Order books of corporation brought into territory	79	50	163
Restrain officers pending investigation	79	47	160
See also, "Receivers."			
Creditors' claims to be on oath	79	82	172
Limitation of time for proof of claim	79	81	172
Cumulative voting	79	40	157
Debts, holders of stock not fully paid liable for	79	22	150
Officers and stockholders paying may recover	79	97	177
Officers liable for, for not filing certificate	79	27	151
Officers liable for making loans to officers and stockholders ..	79	54	164
Officers liable for paying dividends not earned	79	34	154
Officers liable for false certificate	79	59	166
Property mortgaged for, may be acquired	79	1	143
To be first paid out of company's property	79	98	177
Devise of property to corporation	79	1	143
Directors, annual report by	79	48	160
Ceasing to be bona fide stockholders, cease to be directors..	79	44	159
Candidates for office, (cannot be judges, etc., of election....	79	39	157
Chosen annually, unless otherwise provided in charter	79	11	146
Classification of	79	11	146
Election, regulations concerning	79	15	147
Judgment of, as to value of property purchased conclusive ..	79	55	164
Liability for unlawful reduction of capital on unearned dividends	79	34	154
Liability, for not producing books and list at election	79	37	156
Limitations on powers of	79	7	145
List of, to be filed annually	79	48	160
On dissolution	79	35	155
May meet out of this territory	79	50	162
Must call meeting of stockholders when company is insolvent	79	70	168
Not sell property after or in contemplation of insolvency	79	71	168
Number to be not less than three	79	11	146
Number to be fixed and altered by by-laws	79	1	143
Paying debts, may recover	79	97	177
Property of, not to be sold until remedy against company exhausted	79	98	177
Qualification of	79	44	159
Residence of	79	11	146
Term of no class of, to exceed five years	79	11	146
To be trustees on dissolution	79	61	166
To declare dividends	79	53	164
To manage business of corporations	79	11	146
Vacancy filled as provided in by-laws	79	14	147
Votes of, to be recorded	79	12	147
See also "Elections."			

CORPORATIONS—Continued—

	Chap.	Sec.	Pag.
Dissent of director to improper dividend	79	34	154
Dissolution, actions not abated by	79	66	167
By incorporators, before payment of capital	79	36	156
By legislature	79	3	144
Certificate of, to be published	79	36	156
Copy, decree of, to be filed with secretary of territory	79	67	167
Corporate existence continued after	79	60	166
Court has jurisdiction	79	64	167
Disposition of proceeds on	79	65	167
Not caused by failure to elect directors	79	46	159
Powers of trustees on	79	62	166
Receiver	79	63	167
Rights of preferred stockholders on	79	92	175
Territorial taxes must be paid before	79	125	188
Dividends, time of making	79	53	164
May be made cumulative	79	18	148
Elections, to be held annually	79	11	146
Books, only evidence of right to vote	79	45	159
Failure to hold does not work forfeiture	79	46	159
First	79	15	147
Investigation of complaints as to, by court	79	47	159
New elections may be ordered	79	47	159
Regulation concerning	79	38	157
Stock belonging to company not to be voted on	79	43	159
Eminent domain, company requiring power of, not authorized..	79	5	144
Execution against corporation, proceedings	79	68	168
Shares of stock may be sold on	79	126	188
May be satisfied from debts due corporation	79	69	168
Executors and trustees may vote	79	43	158
Existence, corporate, beginning, duration, etc.	79	9	146
Continuance after expiration of charter	79	60	166
Express companies not to be formed under this act	79	5	144
Extension of corporate existence	79	30	152
False certificate, officers making, liable for debts	79	59	166
Fees for filing certificates, etc.	79	119	186
Disposition of	79	120	187
Filing certificates of incorporation	79	8	145
Regulations as to certain certificates, etc.	79	49	162
Foreign corporations, appointment of agent of	79	102	178
Attachment	79	106	179
Cannot maintain action until certificate of authority is ob- tained	79	103	179
Enforcement of writ	79	108	180
How authorized to do business here	79	102	178
Must comply with law before engaging in business	79	102	178
Penalty against, for failure to comply with law	79	105	179
Process against	79	94	176
Service of prerogative writ against	79	107	180
Subject to provisions of this act	79	101	177
Forfeiture of charter for not bringing books into territory....	79	50	162
Franchises of railroad, canal or other public works may be sold	79	88	174
Leased to other corporations	79	124	188
Government of corporations, regulation of	79	7	145
Guardian may vote	79	42	158
Hypothecated stock may be voted on	79	42	158
Hypothecation of stock must be stated in the transfer	79	21	150
Incorporation, certificate of, see "Certificate of Incorporation."			
Incorporator, survivors may designate successor of deceased..	79	121	187

CORPORATIONS—Continued—	Chap.	Sec.	Pag.
Incorporators may surrender corporate powers and dissolve ..	79	36	156
Names and post-office address	79	49	162
Increase of capital stock	79	30	152
Certificate of payment of	79	27	151
Insolvency, assignment or conveyance of assets after, prohibited	79	71	168
Compensation of receivers on	79	91	175
Compromise with creditors	79	77	171
Distribution of assets upon	79	92	175
Forfeiture of charter	79	76	170
Injunction and receiver	79	72	169
Laborers' liens on	79	89	174
Meeting to be called by directors in case of	79	70	168
Powers of receivers	79	73	169
Qualification and oath of receiver	79	74	170
Sale of franchise of public nature	79	88	174
Sale of mortgaged property free from liens	79	87	173
Trial by Jury of disputed claim	79	83	172
See also "Receivers."			
Inspector of election, candidate for director cannot be	79	39	157
Duties of	79	45	159
Insurance companies may not be formed under this act	79	5	144
Investigation by court of complaints touching elections	79	47	159
Irrigation companies not to be formed under this act	79	5	144
Provisions of act apply, how	79	132	191
Judgment of directors as to value of property purchased conclusive	79	55	164
Judgments against corporations, how satisfied	79	69	168
Laborers' lien on insolvency	79	89	174
Labor, work and services paid by stock	79	57	165
Land, power to hold and convey	79	1	143
Power of foreign corporations to hold	79	99	177
Condemnation of, not authorized by this act	79	5	144
Liabilities imposed by this act bind every corporation	79	2	143
Liability of directors	79	34	154
Officers	79	28	152
Stockholders	79	22	150
See also "Penalties."			
Lien, see "Laborers," "Receivers," "Stock."			
Limitations on powers of corporations, etc.	79	7	145
List of corporations to be made by secretary of territory	79	123	187
Officers and directors to be filed, annually	79	48	160
On dissolution	79	35	155
Stockholders to be presented at election	79	37	156
Loans to stockholders, and officers forbidden	79	54	164
Meetings, see "Directors," "Stockholders."			
Merger, dissenting stockholders of certain companies may apply			
for appointment of appraisers	79	113	182
Of certain corporations	79	109	180
Merged corporations form one corporation	79	111	181
Provisions as to	79	110	180
Rights after, where vested	79	112	182
Mortgage, power of corporations to give	79	76	144
Creditors holding, preferred on insolvency	79	90	174
By foreign corporations	79	101	177
Invalid, when	79	101	177
See also "Directors," "Receivers."			
Mutual associations may create stock	79	122	187

CORPORATIONS—Continued—

	Chap.	Sec.	Pag.
Name of corporation to be adopted in original certificate	79	7	145
Not to be same as name already in use	79	7	145
To be displayed at office	79	51	163
Succession by	79	1	143
Names of incorporators to be stated	79	7	145
Notices may be sent to principal office	79	49	162
Objects for which corporation may be formed	79	5	144
To be stated in certificate of incorporation	79	7	145
Officers and agent's, appointment	79	13	147
Annual statement by	79	48	160
Paying company's debts, may recover	79	97	177
Term of office	79	13	147
Vacancies among	79	14	147
Payment of capital stock	79	54	164
Certificate of	79	27	151
Penalties for breach of by-laws	79	1	143
Failure of stockholder to pay assessment on stock	79	25	151
To file certificate of payment of capital stock	79	28	152
To maintain a principal office in New Mexico	79	50	162
To make annual statement	79	48	160
Failure of foreign corporations to obtain authority to do business	79	105	179
To appoint new agent on death of old	79	104	179
Loan to officers or stockholders	79	54	164
Making false certificate or giving false notice	79	59	166
Payment of dividends from other than surplus earnings ..	79	34	154
Refusal to issue new certificate of stock	79	117	185
To exhibit books to stockholder	79	37	156
To bring stock and transfer books into territory	79	50	162
Postoffice address, registered office deemed	79	49	162
Powers, certain, possessed by every corporation	79	2	143
Certain, expressly prohibited	79	5	144
Foreign corporations	79	100	177
Of corporation specified	79	1	143
Receivers on insolvency	79	75	170
Trustees on dissolution	79	62	166
Preferred stock, conversion of into bonds	79	19	149
Dividends to be paid only from profits	79	34	154
Holder of, not liable for debts of corporation	79	18	148
May be issued	79	18	148
Not to exceed two thirds of actual capital	79	18	148
On dissolution preferred in distribution	79	92	175
President, chosen from the directors	79	12	147
To sign certificates of stock	79	20	150
Certificate upon payment of capital	79	27	151
Principal office, agent in charge	79	49	162
Always to be kept in this territory	79	50	162
May be changed	79	32	153
Must be registered	79	49	162
Name to be displayed at	79	51	163
Records to be kept at	79	37	156
Stockholders' meeting to be held at	79	50	162
Process, first, against corporations to be summons	79	93	175
Agent for service of, on foreign corporations	79	104	179
How served on foreign corporations	79	94	176
Service of, on registered agent	79	49	162
On Secretary of territory, when	79	48	160
Provisions of this act extended to special corporations, how..	79	131	190

CORPORATIONS—Continued—

	Chap.	Sec.	Page
Proxy, at stockholders' meeting	79	17	148
Not good after five years	79	41	158
Publication of articles and amendments	79	135	198
Notice of first meeting	79	15	147
On dissolution	79	35	155
Of summons	79	95	176
Qualification of directors	79	44	159
Quorum, at stockholders' meeting	79	38	157
Railroad, Telegraph and Express companies not to be formed under this act	79	5	144
Construction company	79	57	165
Franchise may be sold by receiver	79	88	174
Provisions of this act apply, how	79	133	191
Real estate, power to hold and convey	79	1	143
Receivers of dissolved corporation, appointment of	79	63	167
Powers and duties	79	62	166
Appeal from	79	84	173
Compensation of	79	91	175
Death of, does not abate suit	79	86	173
Distribution of assets by	79	92	175
Insolvent corporation, how appointed	79	73	169
Inventory and accounts to be filed	79	80	172
Jury trial of claim before	79	83	172
Majority may act	79	79	172
May sell incumbered property, when	79	87	173
Oath and qualification of	79	74	170
Of railroads, etc., may sell or lease franchise, etc.	79	88	174
Property, etc., vests in	79	75	170
Reconveyance by, to corporation	79	76	170
Removal of	79	79	172
Substitution of, in pending suits	79	85	173
See also, "Dissolution," "Insolvency."			
Recording of certificate of incorporation	79	8	145
Reduction of capital stock, how effected	79	33	154
Registered office in territory	79	49	162
Regulation of powers in certificate of incorporation	79	7	145
Religious and charitable associations to pay fees on filing papers	79	119	186
Reorganized company may mortgage property and issue stock..	79	77	171
Repeal of this act may be passed	79	4	144
Charter of any corporation	79	3	144
Of all acts inconsistent herewith	79	134	192
Reports must give address of New Mexico office	78	49	162
Annual, to secretary of territory	79	48	160
Penalty for failure to make	79	48	160
Reserve of surplus as working capital	79	53	164
Resident director, corporations must have	79	11	146
Salaries may be allowed to officers and agents	79	1	143
Sale of franchise of corporation having works of public nature	79	87	173
Stock on which assessments are unpaid	79	26	151
Mortgaged property in litigation free of liens	79	88	174
Savings banks not to be formed under this act	79	5	144
Schedule of property to be furnished to sheriff having execution	79	68	168
Seal, power to make and alter	79	1	143
Secretary, every company must have	79	11	146
Duties	79	11	146
Liability for not filing certificate of payment of capital..	79	27	151
Vacancy filled as by-laws provide	79	14	147

CORPORATIONS—Continued—

	Chap.	Sec.	Pag.
Secretary of territory to note decree of dissolution on certificate	79	67	167
Publish list of corporations annually	79	123	187
See also "Certificate of incorporation," "Fees," "Reports," "Statement."			
Service on corporation, method of	79	93	175
Foreign corporation	79	94	176
Services, work and labor paid for by stock	79	57	165
Special acts, how construed with this act	79	132	191
Statement to be filed annually by all corporations	79	48	160
On dissolution	79	35	155
On payment of capital	79	27	151
By foreign corporation	79	102	178
Must give address of New Mexico office, etc.	79	49	162
Stock, amount to be specified in certificate of incorporation..	79	17	142
Assessable until fully paid	79	22	150
Books to determine who may vote	79	37	156
Certificate, every shareholder to have	79	20	150
New one, when lost	79	116	184
Common and preferred	79	18	148
Conversion of preferred into bonds	79	19	149
Fully paid, certificate to be filed	79	27	151
Held by the company not to be voted on	79	43	159
Increase of amount	79	30	152
May be issued for property	79	55	164
Must be paid in money, or money's worth	79	54	164
Mutual associations may issue	79	122	187
Of one corporation may be owned by another	79	58	165
Par value of shares may be changed	79	30	152
Preferred, see "Preferred Stocks"			
Sale for non-payment of assessments	79	25	151
Transferrable on company's books	79	21	150
Transferred within twenty days before election, cannot be voted upon	79	41	158
Stockholders, consent to dissolution	79	35	155
Entitled to certificates of stock	79	20	150
Liability for unpaid balances on stock	79	22	150
Capital withdrawn	79	34	154
Liability of, how enforced	79	96	176
List of, for elections	79	37	156
Meetings to be held in this territory	79	50	162
How called	79	15	147
In certain cases called by stockholders	79	52	163
Non-liability, certificate of	79	23	150
Notwithstanding hypothecation, may vote	79	42	158
Paying company's debts, may recover	79	97	177
Postoffice address of	79	49	162
Property of, not to be sold until remedy against company exhausted	79	98	177
Preferred, rights on dissolution	79	92	175
Qualifications for voting	79	41	158
Quorum	79	38	157
Trustee, executor, etc., may vote	79	42	158
Vote, by proxy	79	41	158
Subscription, how paid up	79	54	164
Liability of stockholders until fully paid	79	22	150
See also "Assessment," "Stock."			
Substitution of receiver in pending suits	79	85	173

CORPORATIONS—Continued—

	Chap.	Sec.	Page
Suits, power to bring and defend	79	1	143
To be commenced by summons, method of service	79	93	175
Not abated by dissolution	79	66	167
By death of receiver	79	86	173
Summons, see "Process."			
Surety companies not to be formed under this act	79	5	144
Surviving incorporators, may designate others	79	121	187
Telegraph companies not to be formed under this act..	79	5	144
Termination of corporate existence	79	7	145
See "Dissolution."			
Transfer of stock	79	21	150
Treasurer, every corporation must have; duties, bonds, etc	79	12	147
To collect assessments	79	25	151
To sell shares of delinquent subscriber	79	26	151
To sign certificate of payment of capital	79	27	151
Vacancy filled as by-laws provide	79	14	147
Trustees may vote on stock held by them	79	42	158
Directors to be on dissolution	79	61	166
Usury, corporations may not plead	79	56	164
Vacancies among directors or officers	79	14	147
Voluntary dissolution	79	35	155
Voting, cumulative	79	40	158
Each share has one vote, unless by-laws provide other-			
wise	79	41	158
See also "Elections."			
Waiver of notice of first meeting of incorporators.....	79	15	147
Work, labor and services paid by stock	79	57	165
Workman's lien, in case of insolvency	79	89	174
Writs, service of prerogative, on foreign corporation	79	107	180

Irrigation—

Dissolution of, Sec. 481, C. L. '97, A	92	1	208
----------------------------------------------	----	---	-----

Municipal—

"El Camino Real," to be constructed by, when	7	7	29
Marshal, prisoners doing work to be under custody of	84	2	197
Officers, election	47	1	95
Officials not personally liable for official acts	67	1	127
Prisoners to do work, when	84	1	197
Tax, special, to levy to meet water and light contracts....	63	1	118
Terms of officers	47	2	96

Streets—

Assessment, city council to determine amount of.....	6	5	25
City engineer to estimate cost of crossings	6	1	24
City council to determine necessity of crossings, when	6	4	25
Interest on liens	6	7	25
Lien, amount when unpaid to be, after what time	6	6	25
Park, cost of crossings to, how charged	6	8	25
Property owners to be heard as to necessity of crossing	6	2-3	24

Water Users' Associations—

Filing fee not to apply to	15	2	43
See "Elephant Butte Water Users' Association."			

COUNCILS—**City—**

Assessment to made by	6	6	25
Engineer to estimate cost of crossings for	6	1	24
Hearing as to necessity of crossing by	6	2-3	24
Necessity of crossings to be determined by	6	4	25

COUNTIES—

	Chap.	Sec.	Pag.
Assessors, compensation of	60	10	115
Classification, method of	60	1	113
When and by whom made	60	7	115
Commissioners' salaries	60	2	114
First class, not affected by Ch. 18, L. '05	18	11	52
Guadalupe county, creation of	20	2	57
Legislative districts	20	2	57
Guadalupe, Quay, and Roosevelt, third class counties	20	4	57
Leonard Wood county, name changed to "Guadalupe" county	20	2	57
Probate clerks' salaries	60	4	114
Judges' salaries	60	3	113
Salaries in Santa Fe not changed	60	9	115
Sandoval county abolished	10	1	35
Creation	10	2	25
School superintendent's, salaries	60	5	114
Treasurers, compensation of	60	11	115

COUNTY ASSESSORS—

See "Assessors, County."

COUNTY COMMISSIONERS—

Advertise for bids on dyke construction	19	4	54
Assistance to be called for, when	19	7	55
Authority to call for assistance	19	7	55
Civil engineers to examine streams, to be appointed by	19	2	54
Compensation, how regulated	22	1	62
Condemnation of sites for dykes by	19	6	55
County Flood Fund, levy for	19	1	53
To be expended under direction of	19	2	54
Court house building fund, levy for	54	1	106
Dona Ana, survey, levy for	57	4	111
Dykes, to borrow money for construction of, when, Ch. 19, L. '05, A	44	1	86
"El Camino Real," right of way for, to be secured by	7	5	28
Flood Sufferers' Relief Fund, to distribute proceeds of	3	6	8
Headgates, authorize to close, when	19	11	56
Horticultural commissioners, tax levy for	53	1	105
Jury wheel, to furnish clerk of district court	116	6	331
Levy for bridges on El Camino Real	7	6	28
Liquor license, when may be revoked by	115	4	328

Luna County—

Delivery of bonds to Grant and Dona Ana counties	87	8	201
Coupon bonds, to issue, for what purpose	87	3	200
Indebtedness, levy to pay interest on	87	10	202
Levy to pay interest on bonds	87	6	200
Purchase outstanding bonds, authorized to	87	9	201
Record of bond issue to be kept by	87	5	200
Sinking fund, to provide for	87	7	201
Moneys for dykes to be expended on approval of	19	4	54
Necessity of dykes to be determined by	19	3	54
Neglect to perform duties, penalty	60	8	115
Notice to be given by, for service	19	8	55
Quay county, assessment account of territorial loan	105	2	286
Roads, public, duties as to	124	..	344
Salaries of	60	2	114
Sale of court house and jail, when authorized	54	3	106
School bonds, levy for payment of interest	74	4	136
Sierra county, survey, levy for	57	4	111
Site for dykes to be selected by	19	3	54
Tax levy for construction of bridges	56	1	108

COUNTY COMMISSIONERS—Continued—	Chap.	Sec.	Pag.
To locate dykes outside counties, when	19	12	56
Township plats, authorized to procure certified copies of	103	1	283
Wild animal bounty, levy for, Sec. 1, Ch. 80, L. '03, R	77	1	140
COUNTY FLOOD FUND—			
Money in lieu of service to be credited to	19	10	56
COUNTY SCHOOL SUPERINTENDENTS—			
Compensation of, Sec. 6, Ch. 27, L. '01, R.	60	6	113
Sec. 6, Ch. 27, L. '01, R	117	2	339
Conductor for normal institute, to appoint	73	5	134
Salaries of	60	5	114
Temporary permits to teach, to issue, when	73	4	134
COUNTY SEATS—			
Removal of, procedure	119	1	340
Sandoval county, changed	70	3	36
Torrance county, changed	2	3	3
COURT HOUSE BUILDING FUND—			
County commissioners to make levy for	54	1	106
Moneys received, to be placed to the credit of	54	2	106
Sale of, when authorized	54	1	106
COURTS—			
District—			
Bernalillo county, terms in	132	1	367
Colfax county, terms in	126	1	355
Condemnation proceedings, power in	97	13	221
Counties of Grant, Dona Ana, Sierra, Luna and Socorro, times of holding court	89	1	204
Counties of Lincoln, Otero, Guadalupe and Quay, times of holding court	89	2	204
Counties of Otero, Lincoln, Guadalupe, Quay, times of holding court	25	1	65
Counties of Santa Fe, San Juan, Taos and Rio Arriba, times of holding court	16	1	44
Excuse from jury service, when granted	116	10	333
Examination of jury wheel, when to be made	116	11	333
First judicial, time of holding court	16	1	44
Writs returnable, when	16	2	44
Fourth judicial, time of holding court	126	1	355
Writs returnable, when	126	2	355
Fifth judicial, time of holding court	4	1	11
Writs returnable, when	4	2	11
Grand juries, to draw names for	116	9	332
Inability of judge to aid in selection of juries, provision in case of	116	20	336
Key to jury wheel, custody of	116	11	333
McKinley county, terms in	132	1	367
Mora county, terms in	126	1	355
Petit juries, to draw names for	116	9	332
Salary and expenses, clerks of, appropriation for	112	5	311
Judges of, appropriation for	112	5	311
Sandoval county, terms in	132	1	367
San Miguel county, terms in	127	1	355
Second judicial, time of holding court	132	1	367
Writs returnable, when	132	2	367
Sixth judicial, salary and expenses of judge, appropria- tion for	1	1	1
Salary and expenses of clerk of, appropriation for	1	2	1
Time of holding court (before July 1, 1905)	25	1	65
Time of holding court (after July 1, 1905)	89	2	204

COURTS—Continued—

	Chap.	Sec.	Pag.
Writs returnable, when	89	3	205
Third judicial district, time of holding court	89	1	204
Writs returnable, when	89	3	205
Torrance county, attached to second judicial district	2	4	3
Terms in	132	1	367
Union county, terms in	126	1	355
Valencia county, terms in	132	1	367

Supreme—

Amendment of quashed writs	114	9	326
Assignment of errors, when to be made	114	3	324
Bond required for granting supercedas, when	114	4	324
Habeas corpus, mandamus, and quo warrant, how executed	114	8	326
Pleadings, arrangement and sufficiency of	114	7	325
Printing dockets and calendars, appropriation for	112	5	311
Process, when returnable	114	2	323
Quashed writs, when permitted to be amended	114	9	326
Sec. 1, Ch. 5, L. '03, A	114	6	325
Sec. 6, Ch. 75, L. '99, R	114	10	326
Sub-sec. 161, Sec. 2685, C. L. '97, applicable to civil cases	114	5	325
Term, Sec. 1, Ch. 4, L. '99, A	114	1	323
Transcript of records, when to be filed	114	3	324
Writs of error and appeals, how executed and served....	114	2	324

CRIMES AND OFFENSES—

Abettor, when considered principal, Sec. 1, Ch. 16, L. '97, A ..	41	1	82
Abettors, when deemed principals, Secs. 1150, 1159, C. L. '97, A ..	52	1	103
Allowing bees to remain infected, a misdemeanor	43	2	85
Animals, trespass by, penalty, repealed	130	1	365
Arson, definition	29	1-2	68
Punishment	29	1-3	68
Artesian well law, actions for violation how instituted	17	8	48
Penalty for violation of	17	12	48
Artesian wells, causing unnecessary flow	17	2	45
Assault with intent to commit murder, tampering with locomotive	41	1	82
Attempt to defraud livery man, penalty	62	2	118
Cattle roping exhibition	32	2	74
Coal oil, etc., below standard, importation, marking or sale of ..	66	4-6	125
Crested quail, killing unlawful, when	51	2	100
District attorney, consulting with defendant, penalty, Sec. 2582, C. L. '97, A	93	1	209
Ditches, flumes, etc., wilful injury to, penalty	91	1	207
Elk, mountain sheep, beaver or ptarmigan, killing of, a misdemeanor	51	1	99
Failure to work after receiving advances, penalty	37	1	79
Of itinerant vendors to secure licenses, penalty	107	6	289
False return upon venire, penalty	116	23	337
Improper placing of names upon jury venire, penalty	116	23	337
Injury of animal or vehicle, when hired, penalty	62	1	117
Interference with machines, a misdemeanor	52	1	103
Itinerant vendors (q. v.)	128	..	358
Jury service, failure to summon for, penalty	116	23	337
Labor ordered by river commissioners, refusal to furnish	18	10	52
Live stock, buying, when a felony	38	2	80
Held on shares, disposition of, a felony	38	1	79
Locomotive attachments, tampering with, a felony	41	1	82
Mining property, entering upon, after notice	28	2	67
Money, description of in indictments	129	1	364
Municipal officers not personally liable for official acts	67	1	127

CRIMES AND OFFENSES—Continued—

	Chap.	Sec.	Page
Murder, obstruction of tracks, when, Secs. 1150, 1159, C. L. '97, A	52	1	103
Tampering with locomotive attachments, when, Sec. 1, Ch. 16, L. '97, A	41	1	82
Optometry law, violations, penalty	96	14	216
Persons in school district, false enumeration of	23	2	63
Railroad track, obstruction of, a felony	52	1	103
Repair of irrigation works, failure to, penalty	102	7	272
Roads, public obstruction or interference	124	..	344
Running live stock with unrecorded brands, penalty	95	5	212
Solicitor general, consulting with defendant, penalty	93	1	209
Tampering with jury wheel, penalty	116	6	331
Trade-marks and labels, unlawful use of	24	3-5	64
Trust companies, overcharge for bonds, penalty	106	3	288
Violation of election law, penalty	127	4	358
Water or light company, must furnish service	63	1	119
CULTIVATED LANDS—			
Boundaries	55	2	107
Definition	55	1	106
Fences, when required	55	1	106
CRUELTY TO ANIMALS—			
Arrest of persons violating Secs. 1133, 1134, C. L. '97	94	1	210

D**DAMAGES—**

Fields by animals, Sec. 1, Ch. 73, L. '03, A	98	1	225
----------------------------------------------	----	---	-----

DENTISTRY—

Fee for registering, Sec. 6, Ch. 60, L. '03, A	45	2	87
Practice, examination, Secs. 5 and 6, Ch. 60, L. '93, A	45	1	87
Register, duty to, Sec. 6, Ch. 60, L. '93, A	45	2	87

DISTRICT ATTORNEYS—

Appointment	33	2	76
Assistant attorney general, salary, appropriation	112	5	311
Assistant—			
Appointment, duties, qualifications	34	1	76
Compensation	34	2	76
Revocation of appointment	34	1	76
Consulting with defendant, a misdemeanor, Sec. 2582, C. L. '97, A	93	1	209
Districts established	33	1	74
Fees, property bought by county for taxes	134	2	369
May compel receiver to pay delinquent taxes	64	1	120
May purchase property sold for taxes, when	64	2	120
Qualifications	33	2	75
Salary	33	3	75
Salary, appropriation for	112	5	311

DISEASES—

Contagious and infectious, among live stock	31	1	70
---------------------------------------------	----	---	----

DISTRICT COURTS—

See "Courts, District."

DISTRICT COURT CLERKS—

See "Clerks, District Court."

DITCHES—

Willful injury to, a misdemeanor	91	1-2	207
----------------------------------	----	-----	-----

DONA ANA COUNTY—

Appropriation for flood sufferers	3	5	7
Board of river commissioners, election of	18	1	40

DONA ANA COUNTY—Continued—

	Chap.	Sec.	Pag.
Community land grants, board of trustees to manage.....	21	1	58
District for district attorney purposes	33	1	74
Indebtedness due from Luna county, adjustment of, ratified ..	87	2	199
Of Luna county, how discharged	87	11	202
Purchase outstanding bonds, Luna county may	87	9	201
Time of holding district court	89	1	204

DYKES—

Civil engineers to submit plan for	19	2	54
Cost of construction, how paid	19	5	54
County Commissioners—			
Condemnation of sites for	19	6	55
"County Flood Fund" may be expended by, for construction of	19	2	54
Levy for the construction of	19	1	53
Moneys to be expended on approval of	19	4-5	54
Necessity to be determined by	19	3	54
Sites to be selected by	19	3	54
To advertise for bids on construction of	19	4	54
To locate outside counties, when	19	12	56
Money to be borrowed for construction of, when, Ch. 19, L. '05, A	44	1	86

E

EDDY COUNTY—

District for district attorney purposes	32	1	74
Hospital appropriation	112	3	311
Time of holding district court	4	1	11

ELECTIONS—

Ballots, official only, to be used or counted	127	3	357
Printing and distribution, supervision of	127	3	357
To be printed by county recorder	127	3	357
Board of river commissioners	18	1	49
Candidates to be nominated by but one political party	127	1	356
Community land grants, qualifications for voting	21	6	59
County commissioners, to order, for trustees, community land grants	21	4	59
Executive committee may substitute names on ballot, when..	127	1	356
Municipal officers, time of	47	1	95
Name may be erased or changed by voter	127	1	356
Party emblem may be changed by territorial convention....	127	2	356
To be filed with secretary of territory	127	2	356
To be used on all ballots	127	2	356
Ch. 59, L. '03, R	127	5	358
Trustees of community land grants	21	5	59
Violation of election law, penalty	127	4	358

ELEPHANT BUTTE WATER USERS' ASSOCIATION—

Appropriation to	57	1	110
Executive officers, surveys under direction of	57	5	111
Quarterly statement, officers to make	57	6	112
Statement of expenditures, officers to make	57	3	111
Survey fund surplus, how disposed	57	7	112
Surveys to be under direction of executive officers	57	5	111

ELK—

Killing unlawful, penalty	51	1	99
---------------------------------	----	---	----

EMINENT DOMAIN—

Irrigation works, extent of right	102	9	273
Territorial lands, when rights reserved	102	9	273

ENGINES—

Interference with, a misdemeanor	52	1	103
----------------------------------------	----	---	-----

EVIDENCE—

Recording contracts pertaining to live stock	38	3	80
----------------------------------------------------	----	---	----

EXECUTORS AND ADMINISTRATORS—	Chap.	Sec.	Page.
Appraiser to be appointed by, Sec. 19, Ch. 81, L. '01, A.....	50	1	98
Failure to begin or defend suit, procedure, Sec. 6, Ch. 81, L. '01, A	131	1	305
EXEMPTIONS—			
Appeals from judgments in claims for	82	5	195
Hearing of claims for	82	2	195
None in suits for collection of poll taxes	61	1	116
Notice, justice of the peace to give, when	82	2	195
Service of notice	82	3	195
Sec. 1746, C. L. '97, A	82	1	194
Trial in cases of claims for	82	4	195
EXHIBITION—			
Cattle roping, see "Cattle Roping Exhibition."			
EX-UNITED STATES SOLDIERS—			
School sections, preference rights to, Sec. 30, Ch. 74, L. '99, A ..	90	1	205

F

FEEs—

Board of dental examiners, registration, Sec. 6, Ch. 60, L. '93, A ..	45	2	87
Board of irrigation control	102	38	282
Dipping inspection	31	6	72
Excess paid by water users' association	15	1	43
Filing articles of incorporation	79	119	186
Water users' association, filing articles of, Sec. 1, Ch. 114, L. '03, A	15	1	43

FENCES—

Cultivated lands, when required about, Sec. 1823, C. L. '97, A ..	55	1	106
-------------------------------------------------------------------	----	---	-----

FINES—

Artesian well law, violation of	17	12	48
County Flood Fund, failure to account for money for	19	10	56
Failure to perform flood service	19	9	56

FISH—

See "Game and Fish."

FLAG—

Display of, directors to provide for	48	2	96
School directors to procure United States	48	1	96

FLAG DAY—

Exercises, superintendent of public instruction to prepare	48	3	97
------------------------------------------------------------------	----	---	----

FLOOD SUFFERERS' RELIEF FUND—

Amounts appropriated to various counties	3	5	7
Commissioners to distribute proceeds, how	3	6	8
Construction of dyke at Albuquerque, mayor and city council to supervise	1	9	1
County commissioners to issue warrants	3	7	8
Sec. 1, Ch. 3, L. '05, A	88	1	203

Certificates—

Deduction from, to pay expenses	3	13	11
Issuance of	3	1	6
Numbering of	3	4	7
Dyke for city of Albuquerque, appropriation for	3	9	9
Dyke for town of Hillsboro, appropriation for	3	12	10
Dyke for town of San Marcial, appropriation for	3	11	10
Dyke for city of Socorro, appropriation for	3	10	9
Expenses, how paid	3	8	9
Interest payable, when	3	1	6
Money to be deposited with county treasurer	3	7	8
Presentation of certificates, treasurer to give notice	3	3	7
Principal and interest, auditor to levy tax for	3	2	6
Vouchers to be taken, when	3	7	8

FLOOD SUFFERERS—

	Chap.	Sec.	Pag.
Taos county commission to distribute funds	123	1	343

PLUME—

Willful injury to, a misdemeanor	91	1-2	207
----------------------------------------	----	-----	-----

FRESH MEATS—

Persons selling, to produce hide	14	2	42
----------------------------------------	----	---	----

G

GALLUP HOSPITAL—

Appropriation	112	3	311
---------------------	-----	---	-----

GAME AND FISH—

Buying and selling, unlawful	51	5	102
Ch. 46, L. '01, R	51	6	103
Game, unlawful to kill, when	51	2	100
Imported, hotels to secure permits	51	3	101
Imported, report to game and fish warden, when	51	3	101
Killed in New Mexico, hotels not to offer to patrons	51	3	101
Limit of days for holding after close of season	51	3	101
Notices, property used for propagation, posting on	51	4	102
Railroads forbidden to transport	51	5	102
Secs. 6, 11, 14, 15, 16 and 18, Ch. 48, L. '03, R	51	6	103
Secs. 1354, 1367, C. L. '97, R	51	6	103
Trespassing, after notice	51	4	102
Unlawful killing of certain game animals, penalty	51	2	100

GAME AND FISH WARDEN—

Appropriation, incidental expenses	112	11	315
Deficiency appropriation	112	15	321
Permit, to hotels and restaurants, to issue	51	3	101
Salary, appropriation for	112	5	311

GARNISHMENTS—

General procedure	133	1	367
-------------------------	-----	---	-----

GEOLOGICAL SURVEY—

Appropriation for publication of reports	112	15	321
------------------------------------------------	-----	----	-----

GOVERNOR—**Appointments by—**

Artesian well supervisor	17	6	46
Board of osteopathy	68	1	128
Coal oil inspector	66	1	124
Commission to distribute funds to flood sufferers in Taos county	123	1	343
Commissioner of public lands	111	2	293
District attorneys	33	2	75
Irrigation commissioners	102	24	278
Irrigation engineer	102	12	274
Officers mounted police company	9	2	31
Superintendent of insurance	5	2	13
Artesian districts to be created by, when	17	6	46
Boards to report, when	72	2	133
Contingent expenses, appropriation for	112	11	314
Messenger, salary, appropriation	112	5	311
Mounted police company, to raise muster	9	1	31
Private secretary, salary appropriation	112	5	311

GRAND AND PETIT JURORS—

See "Juries and Jurors."

GRANT COUNTY—	Chap.	Sec.	Pag.
Appropriation for flood sufferers	3	5	7
District for district attorney purposes	33	1	74
Hospital appropriation	112	3	311
Indebtedness due from Luna county, adjustment ratified	87	1	199
Indebtedness of Luna county, how discharged	87	11	202
Purchase outstanding bonds, Luna county may	87	9	201
Salary of district attorney	33	3	75
Time of holding district court	89	1	204
GUADALUPE COUNTY—			
District for district attorney purposes	33	1	74
Legislative district, Sec. 12, Ch. 69, L. '03, A	20	2	57
Name of county changed from "Leonard Wood" to, Ch. 69, L. '03, A	20	1	57
Salary of district attorney	33	3	75
Third class county, Sec. 14, Ch. 69, L. '03, A	20	4	57
Time of holding district court, (before July 1, 1905)	25	1	65
Time of holding district court, (after July 1, 1905)	89	2	204
See "Leonard Wood County."			

H

HIDES—			
Penalty for failure to produce	14	2	42
Persons selling fresh meats, to produce	14	2	42
HISTORICAL SOCIETY OF NEW MEXICO—			
Appropriation for expenses and purchase of relics	112	11	314
HORSES—			
buying, when a felony	38	2	80
Shares, penalty for disposition, without owners consent	38	1	79
HORTICULTURAL COMMISSIONERS—			
County commissioners to make tax levy for	53	1	105

I

INDIANS—			
Acequias, when required to work	36	1	78
INDIAN RESERVATION—			
Sheep, trailing out of, permit required	42	2	83
INSOLVENT ESTATES—			
To be divided among creditors pro rata, when	12	1	40
INSPECTORS—			
Live stock	31	4-5	71
INSTITUTES, COUNTY—			
Regulation of, Sec. 1, Ch. 120, L. '03, A	73	2	134
INSURANCE DEPARTMENT—			
Accounts, auditor to audit	5	12	17
Agent, penalty for acting as, unless authorized	5	15	18
Annual fee required, Sec. 11 Ch. 70, L. '05, A	70	2	131
Articles of incorporation, insurance companies to file copy of ..	5	29	23
Bond, superintendent to give	5	3	13
Capital, paid up, required	5	19	20
Certificates of Authority—			
Companies required to procure, before transacting business	5	16	18
Superintendent to issue	5	8	14
Charter, foreign corporations to file	5	17	19
Creation of	5	1	13
Documents and papers to be transferred to	5	7	14
Examination, how conducted	5	9	15
Of foreign companies	5	24	21
Examine companies seeking to do business, superintendent to ..	5	9	15
Expenses to be paid from insurance fund	5	12	17

INSURANCE DEPARTMENT—Continued—

	Chap.	Sec.	Pag.
False testimony, penalty for	5	9	15
Fees	5	11	17
File, superintendent to keep	5	8	14
Foreign companies, superintendent to be appointed attorney for service of process on	5	16	18
Fraternal and benevolent societies, how far exempted	5	25	22
Insolvent companies, to be examined, when	5	9	15
"Insurance Company," defined	5	27	22
Insurance fund	5	12	17
Names of existing companies, prohibition against adoption of	5	14	18
Policies and contracts unaffected, to what extent	5	31	23
Superintendent to examine	5	20	20
Premiums subject to tax, what, Sec. 31, Ch. 5, L. '05, A....	39	1	81
Publication of examinations, superintendent may make.....	5	10	16
Re-insurance prohibited, when	5	23	21
Repealed sections of Compiled Laws of '97	5	30	23
Report, annual, all insurance companies to make	5	18	20
Superintendent to make	5	8	14
Superintendent to receive	5	28	23
Time for rendering, changed, Sec. 18, Ch. 5, L. '05, A	39	1	81
Revocation of authority to do business, superintendent may cause, when	5	10	16
Risks, agent of foreign companies to first prove	5	22	21
Salary of superintendent	5	4	13
Seal	5	5	14
Sec. 25, Ch. 5, L. '05, A	39	1	81
Secs. 2136 and 2139, C. L. '97, unaffected	5	26	22
Solicitor general, to advise, when	5	6	14
Superintendent of, appointment of	5	2	13
Appropriation for contingent expenses.....	112	11	316
Inserted in lieu of "Commissioner," Sec. 9, Ch. 5, L. '05, A	70	1	131
May employ assistants, when	5	6	14
Term of office	5	2	13
Territorial treasurer, moneys collected to be turned over to..	5	13	18
Unauthorized companies, penalty for engaging in business with	5	15	18
Violation of insurance law, penalty for	5	21	21

IRRIGATION—

Amount of water allowed	102	4	272
Appurtenant lands, water rights to pass	102	10	273
Assessment, who may levy	102	39	282
Basis of water rights	102	2	271
Board of Control—			
Adjudication of water rights, method and manner.....	102	29	280
Appeals to	102	28	279
Appeals to district court	102	37	282
Certificate of findings, duty to transmit to claimants....	102	36	281
District court, acts and decisions subject to review by..	102	28	279
Duties of commission of irrigation to be performed by....	102	40	282
Fees	102	38	282
How composed	102	24	278
Notice of adjudication	102	29	280
Order of priorities to be determined by	102	36	281
Quorum	102	26	279
Rules and regulations	102	26	279
Statements of claimants to be under oath	102	30	280
Time of meeting	102	26	279

IRRIGATION—CONTINUED—

	Chap.	Sec.	Pag.
Commissioners—			
Appeals from, to engineer	102	28	279
Appointment	102	24	276
Bond, to give	102	25	276
Compensation	102	25	273
Contest of the evidence	102	33	280
Duties	102	27	279
Expenses	102	25	276
Inspection of evidence	102	32	280
Term	102	24	278
Testimony, taking of	102	31	280
Transmission of evidence to engineer	102	34	281
Dissolution of corporations, Sec. 481, C. L. '97, A	92	1	208
Diversion, change of place and means of	102	6	272
Elephant Butte Water Users' Association, appropriation to..	57	1	110
Eminent Domain—			
Extent of right	102	9	273
How acquired	102	9	273
Right of	102	9	273
Territorial lands	102	9	273
Exemption of works from taxation, when	102	8	273
Expenses, how paid	102	41	282
Local customs and rules, right held subject to	102	10	273
Natural waters belong to public	102	1	271
Penalty for failure to repair works	102	7	272
Proceedings for defrauding by	107	4	279
Repair of works	102	7	272
Solicitor general to be advisor of board of control	102	18	276
Standard of measurement of flow and volume of water.....	102	3	271
Territorial Engineer—			
Appeals from commissioners, to	102	28	279
Appointment	102	12	274
Bond, to give	102	12	274
Creation of office	102	11	274
Duties	102	17	275
Examination and measurement of streams	102	35	281
Expenses	102	14	274
Failure to repair dams, procedure	102	20	277
Inspection of dams	102	20	277
Office assistants	102	14	274
Office to be at capitol	102	13	274
Plans for construction of works, to be approved by	102	19	276
Qualifications	102	12	274
Report to governor, to make	102	15	274
Rules and regulations, to make	102	16	275
Salary	102	14	274
Scope of supervision	102	11	274
Term of office	102	12	274
Transmission of evidence to	102	34	281
Transcript of record, county clerks to forward	102	21	277
Unappropriated public water, when regarded	102	5	272
Water diversions			
Run off, ownership of	102	5	272
Utilized by United States, not subject to appropriation by Territory	102	22	277

ITINERANT VENDORS—

	Chap.	Sec.	Page
Act not to apply to certain cases	128	2	359
Application for county license—fees	128	10	361
For license from assessor	107	2	289
For territorial license	128	4	359
Assistants, may have	128	8	360
Cancellation of license	128	7	360
Definition	107	1	288
Definition of term	128	1	359
Deposit required	107	2	289
Existing licenses not affected	128	23	364
Failure to make deposit and secure license, penalty	107	6	289
False oath by, penalty	128	18	363
Fees—			
County	128	9	361
Disposition of	128	12	362
Of secretary of territory for issuing license	128	20	363
Territorial	128	5	360
Fraudulent sales, penalty	128	19	363
License—			
County, required	128	9	361
Doing business without, or obtaining by fraud, penalty....	128	16	362
Fee, failure to pay, penalty	128	17	363
Forging or counterfeiting, penalty	128	15	362
Probate clerk to issue, when	107	3	289
Territorial, not transferable	128	7	360
Territorial, required	128	3	359
To be posted or shown on demand	128	13	362
Void, when	128	14	362
Oath required by applicant for license	128	4	359
Qualifications defined	128	4	359
Record of licenses, by county clerks	128	11	360
Record of licenses, by secretary of territory	128	6	360
Return of deposit to, when to be made	107	5	289
Secretary of territory to issue license	128	5	360
Violators failing to give bond remanded to jail	128	22	364
Violators of act may be bound over for appearance	128	21	364

J**JAILS—**

Sale of, when authorized	54	1	106
--------------------------------	----	---	-----

JOURNAL BEARINGS—

Tampering with, a felony, Sec. 1, Ch. 16, L. '97, A	41	1	82
-----------------------------------------------------------	----	---	----

JUDICIAL DISTRICTS—

Sandoval county	10	12	38
-----------------------	----	----	----

JUDGMENT—

Default, when may be set aside, Sub-sec. 134, Sec. 2685, C. L. '97, A	26	1	66
-----------------------------------------------------------------------------	----	---	----

JURIES AND JURORS—

Apportionment among counties of names to be drawn for U. S. cases	116	17	335
Ch. 66, L. '99, R	116	27	338
Classes exempt from service	116	2	330
Disqualification for service	116	10	333
Drawing of names from wheel, notice of	116	9	332
Examination of wheel, when to be made	116	11	333
Excuse from service, when granted	116	10	333
Exhaustion of names in wheel, how remedied	116	20	336
Failure to summon, penalty	116	23	337

JURIES AND JURORS—Continued—		
	Chap.	Sec. Pag.
False return upon venire, penalty	116	23 337
Grand and petit, selection of	116	9 332
Grand, composition of	116	25 338
Improper placing of names upon jury venire, penalty	116	22 337
Inability of judge to make selection, provision in case of	116	20 336
Inspection of lists, who entitled to	116	11 333
Insufficiency of return, what deemed	116	24 337
May 15, 1905, provisions of jury law applicable after	116	19 336
Names on lists previous calendar year, disregarded	116	18 336
Petit, composition of	116	25 338
Provisions for drawing applicable to United States cases	116	16 335
Qualifications	116	1 329
Tampering with wheel, penalty	116	6 331
United States juries, how drawn	116	13 334
Vacancies, filling of	116	12 334
Venires for grand and petit, what to constitute	116	9 332
Wheel to be revolved before drawing	116	21 337
County commissioners to provide	116	6 331
For drawing of United States juries, marshal to purchase	116	14 334
When selection to be made	116	20 336
JURY COMMISSIONERS—		
Appointment	116	3 330
Compensation	116	26 338
District court clerk to insert names in wheel	116	8 332
Enrollment of names of persons liable to jury duty	116	4 330
• Oath required	116	5 331
Selection of persons liable to jury duty	116	4 330
United States cases, lists for	116	15 334
JUSTICE OF PEACE—		
Appeals from judgment in exemption cases	82	5 195
Cattle roping exhibition, jurisdiction in cases of	32	3 74
Complaint of foul brood among bees	43	3 85
Exemption claims, trial of	82	4 195
Hearing of	82	2 195
Jurisdiction in cases of infected bees	43	5 86
Notice of exemption claims	82	2 195
Nuisance, infected bees to be declared by	43	4 85

L

LADIES' HOSPITAL, DEMING—

Appropriation	112	3 311
---------------------	-----	-------

LANDS—

Adverse possession, suits against, Sec. 2, Ch. 63, L. '99, A	76	1 139
See "Public Lands."		

LAND GRANT—

....Cebilleta de la Joya—

Board of Trustees—

Assessment against interests of owners, when authorized	46	7 92
Attorneys, employment of	46	10 95
Bond	46	2 89
Compensation	46	3 90
Election of successors	46	2 89
Lien created by assessments of	46	7 93
List of owners of undivided interests to be made....	46	6 92
Meetings	46	19 95
Not a body corporate	46	11 95

LAND GRANT—Continued—

	Chap.	Sec.	Pag.
Officers	46	4	90
Organization	46	4	90
Personnel	46	2	89
Qualifications	46	2	89
Renting and leasing of lands	46	5	91
Rules and regulations	46	5	91
Sale of lands, limitation of power of	46	9	94
Suits, when and how brought	46	8	93
Term	46	2	89
Treasurer to give bond	46	4	90
Trespasses, damages to be collected from	46	7	93
Ch. 71, L. '74, R	46	1	88
Joint owners permitted to dispose of interests	46	12	95

Community—**Board of Trustees—**

Body corporate	21	2	58
County Commissioners to order election for	21	4	59
Elections	21	5	59
Expenses	21	10	61
Meetings	21	10	61
Officers	21	7	59
Organization	21	7	59
Powers	21	8	60
President, duties	21	7	59
Qualifications	21	3	58
Term of office	21	6	59
To manage	21	1	58
Vacancies	21	10	61
Disposition of lands, when effective	21	9	61
Secretary and treasurer of board, duties	21	7	59
Secretary and treasurer of board to give bond	21	7	59
Voting, qualifications for	21	6	59

LEGISLATIVE DISTRICTS—

Guadalupe county	20	2	57
Sandoval county	10	11	38

LEONARD WOOD COUNTY—

Appropriation for flood sufferers	3	5	7
Name of county changed to Guadalupe	20	1	57
Peace officers, Sec. 13, Ch. 69, L. '03, R.	20	3	57
Word "Roosevelt" stricken out, Ch. 20, L. 05,A	58	1	112
See "Guadalupe County."			

LEVY, TAX—

See "Taxes."

LIBEL—

Act to define and punish, revived, Ch. 14, L. '93, R.	13	1	41
Ch. 2, L. '89, defining and punishing, revived	13	1	41

LIBRARIES—**Territorial—**

Appropriation	112	9	314
Appropriation for deficiency for insurance	112	12	317
Appropriation for insurance	112	12	317

LIBRARIAN—**Territorial—**

Salary, appropriation for	112	5	311
---------------------------------	-----	---	-----

LICENSES—	Chap.	Sec.	Page.
Itinerant vendors—			
Failure to secure, penalty	107	6	289
Probate clerk to issue to	107	3	289
To apply to assessor for	107	2	289
Liquor, county commissioners may revoke, when	115	4	328
Sec. 4124, C. L. '97, A	115	1	327
Violations of certain sections	115	5	328
LIENS—			
Assessment for constructing crossings to be	6	6	25
Live stock dipped by cattle sanitary board	31	7	72
Penalty for violation	42	6	84
LINCOLN COUNTY—			
District for district attorney purposes	33	1	74
Time of holding court (before July 1, 1905)	25	1	65
Time of holding court (after July 1, 1905)	89	2	204
LIQUOR—			
License for sale in quantities less than five gallons, prohibited	115	3	327
Sale near certain federal and territorial institutions, prohibited	115	2	327
LIVERYMEN—			
Copy of act to post	62	3	118
Penalty for attempt to defraud or injure property of	62	1-2	117
LIVE STOCK—			
Brands on, to be recorded	95	1	211
Buying, when a felony	38	2	80
Dipping to be under supervision of department of agriculture	31	6	72
Districts for infected	31	2	71
Evidentiary value of recorded contracts pertaining to	38	3	80
Infected, Cattle Sanitary Board to seize and treat	31	2	71
To be seized for treatment	31	3	71
Lien on, when dipped	31	7	72
Notice of sale, when to be given	95	4	212
Sale of, when without recorded brands	95	3	211
Seizure of, with unrecorded brands	95	2	211
LOCOMOTIVE ATTACHMENTS—			
Tampering with, a felony, Sec. 1, Ch. 16, C. L. '97, A	41	1	82
LOUISIANA PURCHASE EXPOSITION BOARD—			
Appropriation	112	15	319
Continuing, existence of	112	15	319
LUNA COUNTY—			
Bonds, county commissioners to issue, for what purpose	87	3	200
Delivery of, to Dona Ana and Grant counties	87	8	201
Form of	87	4	200
Record of issue, commissioners to keep	87	5	200
Discharge of indebtedness to Grant and Dona Ana counties	87	11	202
District for district attorney purposes	33	1	74
Indebtedness due Dona Ana county, adjustment, ratified	87	2	199
Grant county, adjustment, ratified	87	1	199
Levy to pay interest on	87	10	202
Levy to pay interest on bonds	87	6	200
Purchase of outstanding bonds	87	9	201
Sinking fund	87	7	201
Time of holding district court	89	1	204

M

	Chap.	Sec.	Page.
MACHINES—			
Interference with, a misdemeanor	52	1	103
MANDAMUS—			
Bernalillo county to use against Sandoval county, when	10	10	38
MARRIAGES—			
Application for license, how made	65	2	121
Copy of act regarding licenses to be posted	65	7	121
Fees of probate clerk for license, etc.	65	6	121
Form of application, license and certificate	65	8	122
License to be obtained from probate clerk	65	1	120
Other civil or religious records not affected by act	65	5	121
Persons solemnizing must require production of license	65	3	121
Persons solemnizing, to certify same to probate clerk	65	4	121
Violation of license act a misdemeanor	65	9	123
MARSHAL, UNITED STATES—			
Jury wheel, duty to purchase	116	14	334
McKINLEY COUNTY—			
District for district attorney purposes, creation of	33	1	74
Salary of district attorney	33	3	75
Time of holding district court	132	1	367
MEMORIALS, JOINT—			
Petitioning congress to establish 7th judicial district, J. M.			
No. 10			390
Petitioning congress to pass pure food laws, J. M. No. 7.....			388
Petitioning congress relative to Pajarito National Park, J. M.			
No. 6			387
Petitioning for new U. S. Land office at Santa Rosa, J. M. No. 8			388
Petitioning Illinois legislature regarding statehood, J. M. No. 4			383
Petitioning permission to build "Scenic Road" across Pecos			
Forest Reserve, J. M. No. 11			391
Petitioning that Navajo Indians be made to cease violating			
game laws, J. M. No. 9			389
Protesting against passage by senate of bill relating to Rio			
Grande dam, J. M. No. 3.....			382
Protesting against withdrawal of public lands in San Juan			
County, J. M. No. 5			385
Protesting to president against creation of Rio de Jemez For-			
est Reserve, J. M. No. 2			381
Protesting to senate against passage of joint statehood bill, J. M.			
No. 1			379
MIMBRES VALLEY—			
Appropriation for protection of residents of	112	14	318
MINING CLAIMS—			
Assessment work upon	83	1	196
Relocation, not subject to, when	83	1	196
MINING PROPERTY—			
Entering upon after notice, misdemeanor	28	2	67
Owner or lessee to post notices upon, when	28	1	67
MISDEMEANORS—			
Secs "Crimes and Offenses."			
MONEY—			
Description of, in indictments	129	1	364
MORA COUNTY—			
Appropriation for food sufferers	3	5	7
District for district attorney purposes, creation of	33	1	74
Time of holding district court	126	1	355
Salary of district attorney	33	3	75

MOUNTAIN GROUSE—

	Chap.	Sec.	Pag.
Killing unlawful, when, penalty	51	2	100

MOUNTAIN SHEEP—

Killing unlawful, when, penalty	51	1	99
---------------------------------------	----	---	----

MOUNTED POLICE COMPANY—

Arms, territory to furnish	9	2	32
Arrests, members to make	9	11	33
Auditor to draw warrants for pay of	9	12	33
Contingent expenses of, appropriation for	9	13	34
Cost of organization, limitation of	9	14	33
Enrollment, term of	9	5	32
Equipment, members to furnish	9	4	32
Governor to raise and muster	9	1	31
Horses and arms, prohibition against disposition of	9	7	32
Movements to be directed by captain	9	10	33
Officers, governor to appoint	9	2	31
Operations, captain to select base of	9	8	32
Regulations to be used	9	9	32
Salary of officers	9	1	31
Supervision	9	6	32
Tax levy	9	13	33
Uniform	9	15	34

MUNICIPAL CORPORATIONS—

See "Corporations, Municipal."

N (UCPN8xz?? ;????cmfwyp uplydwrfrmr

NATIONAL GUARD—

Appropriation for support of	112	8	313
Armories	101	68	262

Arms, Uniforms and Equipments—

Dress uniform	101	66	262
Enlisted men	101	65	261
Organizations	101	64	261
Responsibility for public property	101	67	262

Commissioned Officers—

Appeals from an election	101	33	249
Appointed officers	101	31	247
Brevet commissions	101	35	250
Dismissal	101	40	253
Elected officers	101	30	247
Elections	101	32	248
Eligibility required to receive a commission	101	27	245
Examination	101	28	247
Examination and discharge	101	39	252
Examining board	101	29	247
Oath of office	101	34	250
Officers	101	26	245
Removal	101	41	253
Resignations	101	37	251
Retirement and discharge	101	38	251
Supernumerary officers	101	36	250

Enlisted Men—

Discharges	101	50	256
Dropping from the rolls	101	47	253
Enlistment	101	42	253
Enlistment papers	101	44	254
Non-commissioned officers	101	46	254
Re-enlistments	101	43	254

NATIONAL GUARD—Continued—		Chap.	Sec...	Pag.
Retirement	101	49		256
Taking up from dropped	101	48		255
Transfers	101	45		254
Militia—				
Adjutant general and assistants	101	15		232
Armory commissions	101	16		236
Articles of war of the United States, when to be enforced	101	13		241
Audit and payment of accounts	101	18		238
Commander in chief	101	6		229
Drafts or volunteers from	101	9		230
Enrollment	101	2		228
Examination of assessment rolls and poll lists	101	4		229
Legal adviser of the commander in chief	101	17		238
Notice of enrollment	101	3		228
Persons subject to military duty	101	1		227
Power of governor in case of invasion	101	8		230
Proclamation of state of insurrection	101	12		231
Punishment for failure to appear	101	10		231
Relief from civil or criminal liability	101	14		232
Reserve militia, organization of	101	11		231
Staff of the governor	101	7		229
Military Courts—				
Courts	101	61		260
Indemnity for action of	101	62		261
Presumption of jurisdiction	101	63		261
National Guard of the Territory—				
Composition and strength	101	19		238
Organization—				
Band, cavalry	101	21		242
Cavalry	101	21		241
Field artillery	101	22		242
Hospital corps	101	24		243
Infantry	101	20		239
Signal corps	101	23		243
Staff departments	101	25		245
Pay and Allowances—				
Adjutant general's office	101	74		265
Aiding civil authority	101	70		263
Duty pay	101	69		262
Expenses of delinquency courts for enlisted men	101	72		265
Injured or disabled in service, pay and care, when	101	75		265
Officers serving on boards, commissions and courts	101	71		264
Special duty, officers and enlisted men assigned to	101	73		265
Privileges, Prohibitions and Penalties—				
Amendatory and repealing statutes, provision as to	101	83		268
By-laws	101	85		269
Civil process, exemption from	101	76		266
Customs and usage of the United States army	101	88		270
Duties by title of office	101	84		268
Formation of association	101	85		269
Freedom from interference	101	77		266
Free passage through toll-gates	101	78		266
Jury duty, exemption from	101	79		267
Liquor and huckster sales, prohibited	101	81		267
Military parades by unauthorized bodies, prohibited	101	82		268
Repealer	101	89		270

NATIONAL GUARD—Continued—			Chap.	Sec.	Page
Right of way	101	77		206	
Rules and regulations	101	87		209	
Trespassers and disturbers, arrest of	101	81		207	
Unlawful conversion of military property	101	80		207	
Unlawful wearing of uniform and devices indicating rank..	101	80		207	
Violation of by-laws, expulsion	101	86		269	
Service—					
Camp practice	101	54		258	
Conduct of commanding officers in aid of civil authorities..	101	56		258	
Discipline and exercise	101	60		260	
Drills and parades	101	53		258	
Excuses from duty	101	59		260	
Insurrection or invasion	101	57		259	
Responsibility for efficiency	101	52		257	
Small-arms practice	101	55		258	
Warning for duty	101	58		260	
War service	101	51		257	
NEW MEXICO AGRICULTURAL COLLEGE—					
See "Territorial Institutions."					
NEW MEXICO ASYLUM FOR THE DEAF AND DUMB—					
See "Territorial Institutions."					
NEW MEXICO INSANE ASYLUM—					
See "Territorial Institutions."					
NEW MEXICO INSTITUTE FOR THE BLIND—					
See "Territorial Institutions."					
NEW MEXICO MILITARY INSTITUTE—					
See "Territorial Institutions."					
NEW MEXICO NORMAL UNIVERSITY—					
See "Territorial Institutions."					
NEW MEXICO NORMAL SCHOOL—					
See "Territorial Institutions."					
NEW MEXICO REFORM SCHOOL—					
See "Territorial Institutions."					
NEW MEXICO SCHOOL OF MINES—					
See "Territorial Institutions."					
NEW MEXICO UNIVERSITY—					
See "Territorial Institutions."					
NEW MEXICO TERRITORY BOARD OF EXAMINERS IN OPTOMETRY—					
See "Optometry, Practice of."					
NORMAL INSTITUTE—					
Conductor, how appointed	73	5		135	
NOTICE—					
Exemption claims, how served	82	3		195	
Mining property	28	1		67	
NUISANCE—					
Artesian wells, when	17	1		45	
Infected bees and bee hives	43	4		85	
O					
OFFENSES—					
See "Crimes and Offenses."					
OPTOMETRY, PRACTICE OF—					
Board of Examiners—					
Affidavit to be filed	96	6		214	
Annual report to the governor	96	11		215	

OPTOMETRY, PRACTICE OF—

	Chap.	Sec.	Page.
Appointed	96	3	213
Compensation	96	11	213
Created	96	3	213
Examination	96	5	214
Expenses	96	11	215
Fee, annual registration	96	12	216
Fee, for re issuance of certificate	96	8	214
Meetings	96	4	213
Oath	96	3	213
Officers	96	4	213
Revocation of registration certificate	96	13	216
Vacancies	69	3	213
Certificate of registration required	96	2	213
To be displayed	96	10	215
Definition	96	1	213
Forfeiture of right to certificate	96	9	215
Jurisdiction of violations	96	15	216
Persons entitled to certificate, how exempted	96	7	214
Physicians and surgeons unaffected	96	16	217
Recording of certificate	96	8	214
Violations of act, penalty	96	14	216

ORPHANS' SCHOOL, SANTA FE—

Appropriation	112	3	311
---------------------	-----	---	-----

ORPHAN CHILDREN'S HOME—

See "Territorial Institutions."

OTERO COUNTY—

District for district attorney purposes, creation of	33	1	74
Time of holding district court, (before July 1, 1905)	25	1	65
Time of holding district court, (after July 1, 1905)	89	2	204

P**PENITENTIARY—**

Convicts to construct "El Camino Real"	7	2	27
"El Camino Real," superintendent to have charge of construction	7	2	27
Salary of board, appropriation for	112	5	311

PHARMACIST—

Unregistered, compounding prescriptions, penalty, Sec. 3718, C. L. '97, A	80	1	193
---------------------------------------------------------------------------------	----	---	-----

PHEASANT—

Killing unlawful, when, penalty	51	2	100
---------------------------------------	----	---	-----

PHYSICIANS AND SURGEONS—

Optometry law, not to affect	96	16	217
------------------------------------	----	----	-----

PIPE LINE—

Willful injury to, a misdemeanor	91	12	207
----------------------------------------	----	----	-----

PRAIRIE CHICKEN—

Penalty for killing, when	51	2	100
---------------------------------	----	---	-----

PROBATE JUDGE—

Appraiser to be appointed by, Sec. 19, Ch. 81, L. '01, A	50	1	98
----------------------------------------------------------------	----	---	----

PROPERTY SOLD FOR TAXES—

Fees, if bought by county, paid, when	134	2	369
Sale of duplicate certificates	134	1	368

PTARMIGAN—

Killing unlawful, when, penalty	51	1	99
---------------------------------------	----	---	----

PUBLICATION OF PROCESS—

Clerk of court to make	121	1	341
------------------------------	-----	---	-----

PUBLIC INSTITUTIONS—

See "Territorial Institutions."

PUBLIC LANDS—

	Chap.	Sec.	Page
Applications, how made	111	31	308
To state what	111	24	308
Assignment of leases and permits	111	22	299
Board of Control—			
Appeals, power to hear and determine	111	45	306
Artesian well locations, investigation of	111	41	305
Compensation	111	39	304
Donation of lands under reservoirs	111	43	306
Expenses	111	39	304
Improvement of Rio Grande, investigation for the	111	44	306
Irrigation works, construction of	111	42	305
Meetings	111	39	304
Officers	111	39	304
Powers	111	39	304
Unfinished business before commission of irrigation to be turned over to	111	51	308
Certain acts repealed	111	53	308
Ch. 69, (except Sec. 1), L. '01, R	111	53	308
Ch. 74, (except Sec. 2), L. '99, R	111	53	308
Ch. 78, L. '03, R	111	53	308
Commissioner—			
Agricultural college, sale for benefit of	111	52	308
Appeal from decisions of	111	35	303
Appointment	111	2	293
Appraisement of, to make	111	19	299
how made	111	20	299
Authentication of official papers	111	5	294
Clerkship	111	4	294
Duties of	111	6	294
Institute for the blind, sale for benefit of	111	52	308
Lands not to be sold, what	111	13	297
Matured and fallen timber, authority to sell	111	16	297
Notification of rental value, to give applicant	111	25	300
Oath and bond	111	3	293
Office expenses allowed	111	7	295
Recommendation of selections	111	8	295
Record of business transacted, to keep	111	11	296
Reservoir sites, not to recommend location of	111	10	295
Rules, to adopt and publish	111	34	303
Salary	111	4	294
Salt lands, duty to ascertain	111	9	295
Seal, to be provided with	111	5	294
Separate accounts for each institution or purpose	111	12	296
Term of office	111	2	293
To remain in office till expiration of term	111	53	308
Townsites on territorial lands, when permitted	111	48	307
Transcript of selections, duty to keep	111	47	307
Credits for money advanced, who to be given	111	33	303
Fees, United States land office	111	50	307
Funds, to be how used	111	30	303
improvements, lessees may remove, when	111	28	301
New lessees to purchase	111	27	301
Land office, creation of	111	1	293
Lessees, not to use timber or other materials	111	15	297
Levy to provide funds for U. S. land office fees, auditor to make	111	50	307

LAND GRANTS—Continued—

	Chap.	Sec.	Pag.
Location of lands, applications for	111	32	302
Money for common schools, how disbursed	111	37	304
Money for territorial institutions, how paid	111	38	304
Pasturage permits	111	30	302
Penalty for wrongful use of material	111	18	298
Preference rights, persons occupying territorial lands to have	111	29	301
Qualified lessees, who is	111	21	299
Renewal of leases and permits	111	23	299
Rent, payable annually	111	14	297
To be first lien on improvements	111	26	306
Territorial treasurer to invest funds	111	40	304
Timber and stone, when lessee may use	111	17	298
Trespasser, who considered	111	49	307
United States Land Commission—			
Compensation	111	46	306
PUBLIC SCHOOLS—			
See "Schools, Public."			

Q**QUARANTINE—**

Infected live stock, by cattle sanitary board	31	1	70
-----------------------------------------------------	----	---	----

QUAY COUNTY—

Assessment account of territorial loan, commissioner to make	105	2	286
District for district attorney purposes	33	1	74
Salary of district attorney	33	3	75
Third class county, Sec. 14, Ch. 69, L. '03, A	20	4	57
Time of holding district court, (before July 1, 1905)	25	1	65
Time of holding district court, (after July 1, 1905)	89	2	204
Territorial treasurer to make loan to	105	1	286

R**RAILROAD COMPANIES—**

Felony, obstruction of track	52	1	103
Track obstruction of, a felony. Secs. 1150, 1159, C. L. '97, A ..	52	1	103
Transportation of game prohibited	51	5	102

RECEIVERS—

Of corporations, see "Corporations."			
To pay delinquent taxes	64	1	119

RECORDERS—

See "Clerks, Probate and Ex-Officio Recorders."

REGISTRATION BOARDS—

Compensation, Sec. 1711, Ch. 2, C. L. 97, A	40	1	81
---------------------------------------------------	----	---	----

RELIEF SOCIETY, LAS VEGAS—

Appropriation	112	3	311
---------------------	-----	---	-----

RESERVOIR—

Wilful injury to, a misdemeanor	91	1-2	207
---------------------------------------	----	-----	-----

RESOLUTIONS, JOINT—

Additional pay for regular capitol employes, J. R. No. 12 .....	..	..	376
Chaves, J. Franco, purchase of bust of, J. R. 13 .....	..	..	377
Chaves, J. Franco, reward for capture and conviction of persons assassinating, J. R. No. 4 .....	..	..	371
Colorado senate, vote of thanks for separate statehood resolution, J. R. No. 6 .....	..	..	372
Commending action of President Roosevelt on trusts, J. R. No. 14 .....	..	..	377

RESOLUTIONS—JOINT

	Chap.	Sec.	Page
Contingent expenses of legislature, payment of, J. R. No. 1.....	370
Institutions inspection committee, authorization of, J. R. No. 7	373
Legislature, furnishing C. L. '97, J. R. No. 2	370
Furnishing Session Laws of 1899, 1901 and 1903, J.			
R. No. 3	371
Pay of officers, etc., after adjournment, J. R. No. 11.....	375
Printing of bills and documents, J. R. No. 10	375
Protesting against leper colony, J. R. No. 8	374
Public officials and others, distribution of C. L. '97, and S. L., J.			
R., No. 9	374
Public press, to receive copy of bills and resolutions intro-			
duced, J. R. No. 5	372

REVENUE—

Secs. 5, 6, 7, 8, 9, L. '03, R	100	1	226
Sec. 32, Ch. 22, L. '99, R	100	1	226

RIO ARRIBA COUNTY—

Appropriation for flood sufferers	3	5	7
District for district attorney purposes	33	1	74
Dividing line between Taos county changed, Sec. 541, C. L.			
'97, A	11	1	39
Salary of district attorney	33	3	75
Time of holding district court	16	1	44

RIO GRANDE—

Male residents of valley, labor required, when	18	5	50
Property along, subject to taxation	18	3	49
River commissioners	18	1	49
Sec. 1, Ch. 18, L. '05, A	35	1	77

RIVER COMMISSIONERS—

Abolished in counties of the first class	19	13	56
------------------------------------------------	----	----	----

ROADS, PUBLIC—**"El Camino Real"—**

Appropriation for construction	7	11	29
Arch at Santa Fe, erection of	7	10	29
Bridges to be constructed, of what material	7	8	29
Convicts employed granted additional good time allowance	7	3	26
County commissioners to levy tax for creation of fund for			
To secure right of way	7	5	26
Engineer to survey route	7	4	26
Established	7	1	27
Monuments, erection	7	9	29
Municipal authorities to construct, when	7	7	29
Penitentiary labor, use of	7	2	27
Superintendent of penitentiary to have charge of construc-			
tion	7	2	27
Tax levy to create fund, manner of making	7	11	29

Highways—

Action for recovery of fines and forfeitures	124	40	353
Assessment of benefits and damages	124	10	346
Bridges to be built by contract, when	124	23	349
Collection of delinquent taxes	124	33	352
Compensation of commissioners	124	12	347
Commission to be notified by county clerk	124	8	346
To view and mark proposed road	124	7	346
County commissioners may declare road established	124	15	348
To consider report of viewers	124	13	347
Damages, appeal to court allowed, when	124	17	348
Pay by county, when	124	16	348
Debtor of delinquent tax payer liable for costs, when.....	124	32	352
Delinquent taxes collectible from debtor of delinquent.....	124	30	351
Delinquent tax payers to be listed	124	28	351

ROADS, PUBLIC—Continued—

	Chap.	Sec.	Pag.
Deposit for expense of viewing proposed road	124	3	343
Discontinuance of	124	4	344
Employer to furnish list of employes liable to pay tax	124	29	351
Establishment or alteration of	124	4	343
Failure of Commissioners to act, penalty	124	9	346
Flooding of, prohibited	124	37	353
Fords deemed part of	124	23	349
Labor in lieu of taxes	124	26	350
Maintenance of	124	3	344
May be opened on petition, when	124	19	348
Notice to commission, how served	124	9	346
Notice to debtor of delinquent tax payer same as garnishee	124	31	352
Obstruction of fords, penalty	124	23	349
Obstruction of, prohibited	124	36	352
Overseers—			
Compensation of	124	35	352
Districts	124	24	350
Duties of	124	27	350
To be notified by county clerk, when	124	21	349
To make annual report	124	34	352
Owners of ditches, etc., to provide safe crossings	124	38	353
Private roads to connect with, how established	124	20	349
Procedure when new road lies on county line	124	6	345
Repealer, general	124	41	354
Report and plats to be recorded	124	14	347
Report of commission	124	13	347
Road tax	124	25	350
Tax to be paid to overseer	124	26	350
Use of local materials and labor encouraged	124	39	353
Vacancies on commission, how filled	124	11	347
Viewing and marking roads	124	10	346
What constitute	124	1	344
Width of	124	18	348

ROOSEVELT COUNTY—

District for district attorney purposes	33	1	74
Third class county, Sec. 14, Ch. 69, L. '03, A	20	4	57
Time of holding district court	4	1	11
Word, stricken out, Ch. 20, L. '05, A	58	1	112

S**SALE—**

Live stock with unrecorded brands	95	3	211
Notice required, in case of live stock	95	4	212

SALOONS—

Prohibition near certain federal and territorial institutions.....	115	2	327
--------------------------------------------------------------------	-----	---	-----

SANDOVAL COUNTY—

Abolished, Ch. 27, L. '03, R	10	1	35
Appropriation for flood sufferers	3	5	7
Boundaries	10	2	35
County seat, location	10	3	36
Creation of	10	2	35
District attorney, appointment and salary	10	10	38
District for district attorney purposes	83	1	74
Indebtedness, proportional amount to be assumed by	10	7	36
Judicial district	10	12	38
Legislative representation	10	11	38

SANDOVAL COUNTY—Continued—

	Chap.	Sec.	Pag.
mandamus, to enforce payment from	10	10	38
Officers of old county to have jurisdiction, until when	10	4	36
Precincts and precinct officers	10	5	36
Records of old county to be transferred	10	4	36
Rights and privileges of old county transferred to new county..	10	6	36
Salary of district attorney	33	3	75
School district and officers	10	5	36
Special levy when collected to be paid over to Bernalillo county	10	9	38
Tax levy to pay original bonded indebtedness	10	8	37
Time of holding district court	132	1	367

SANITARY BOARD, CATTLE—

See "Cattle, Sanitary Board."

SANITARY BOARD, SHEEP—

See "Sheep Sanitary Board."

SAN JUAN COUNTY—

District for district attorney purposes	33	1	74
Salary of district attorney	33	3	75
Time of holding district court	16	1	44

SAN MIGUEL COUNTY—

Appropriation for flood sufferers	3	5	7
District for district attorney purposes	33	1	74
Salary of district attorney	33	3	75
Time of holding district court	126	1	355

SANTA FE COUNTY—

District for district attorney purposes	33	1	74
Salaries of officials not changed	60	9	115
Salary of district attorney	33	3	75
Time of holding district court	16	1	44

SCHOOL DIRECTORS—**Bonds—**

Denomination, interest, maturity	74	3	135
Levy, to pay interest on	74	4	136
To issue, when	74	2	135
Borrow money, authorized to, when	81	1	193
Compensation of clerk	23	1	62
Debts contracted by, validity of	74	1	135
Display of flag, duty to provide for	48	2	96
Flag day exercises, superintendent of public instruction to furnish program for	48	4	97
Penalty for making false enumeration	23	2	63
Sec. 1, Ch. 72, L. '03, A	109	1	290
United States flags, duty to procure	48	1	96

SCHOOL DISTRICTS—

Bonds issued, binding on, when, Sec. 1541, C. L. '97, A	81	1	193
Directory of schools to make enumeration	23	1	62
Sandoval county, officers	10	5	36

SCHOOL FUNDS—

Clerk of school directors to be paid out of	23	1	62
---------------------------------------------------	----	---	----

SCHOOL SECTIONS—

Ex-United States Soldiers, preference rights of, to, Sec. 30, Ch. 74, L. '99, A	90	1	205
---------------------------------------------------------------------------------------	----	---	-----

SCHOOLS, PUBLIC—

Flag day	48	3	97
Sec. 2, Ch. 27, L. '01, A	73	3	134
Sec. 3, Ch. 119, L. '03, A	73	6	136

SECRETARY, TERRITORIAL—	Chap.	Sec.	Pag.
Annual list of corporations, to compile	79	123	187
Bonds of territorial officials, to be filed with	59	1	113
Corporation fees, disposition of	79	120	187
To file articles with	79	8	146
Fees to collect, for filing incorporation papers	79	119	186
Itinerant vendors, to license	128	..	359
Party emblem, to be filed with	127	2	356
Record of trade-marks, to be kept by	24	1	63
SHEEP—			
Buying, when a felony	38	2	80
Indian reservation, trailing out of, permit required	42	2	83
Infected, duty to report to sheep sanitary board	42	3	83
With scabies, trailing across county line, prohibited..	42	1	83
Owners to obey orders of sheep sanitary board	42	6	84
Public buck herd, report of location	42	4	84
Shares, penalty for disposition, without owner's consent	38	1	79
Violations of preceding sections	42	6	84
SHEEP SANITARY BOARD—			
Infected sheep, to be reported to secretary	42	3	83
Inspector's permit to trail sheep out of Indian reservation...	42	3	83
Owners of sheep, to obey orders of	42	5	84
Secretary, infected sheep to be reported to	42	3	83
Report of public buck herd to	42	4	84
Suits for collection of penalty, when may be instituted	42	6	84
Trailing infected sheep across county line, permit required	42	1	83
SHEEP SANITARY FUND—			
Money recovered, to be paid into, when	42	6	84
SHERIFFS—			
County—			
Appropriation for transporting prisoners	112	6	313
Compensation for serving notice of road service	19	8	55
Deputy, qualifications of	120	1	341
To serve notice of appointment on road commissioners	124	9	346
SIERRA COUNTY—			
Appropriation for flood sufferers	3	5	4
District for district attorney purposes	33	1	74
Salary of district attorney	33	3	75
Time of holding district court	89	1	204
SISTER'S HOSPITAL, ALBUQUERQUE—			
Appropriation	112	3	311
SISTERS OF LORETTO, TAOS—			
Appropriation	112	3	311
SISTERS OF MERCY HOSPITAL—			
Appropriation	112	3	311
SOCORRO COUNTY—			
Appropriation for flood sufferers	3	5	7
Board of river commissioners, election of	18	1	49
District for district attorney purposes	33	1	74
Salary of district attorney	33	3	75
Time of holding district court	89	1	204
SOLICITOR GENERAL—			
Consulting with defendant, a misdemeanor, Sec. 2582, C. L.			
'97, A	93	1	209
Flood sufferers relief fund, to prescribe form certificate of in-			
debtedness	3	1	6
Irrigation board of control, to advise	102	18	276

	Chap.	Sec.	Page.
SOLICITOR GENERAL—Continued—			
Title changed to "Attorney General"	113	1	329
See "Attorney General."			
ST. VINCENT'S HOSPITAL—			
Appropriation	112	3	311
STATEHOOD COMMITTEE—			
Appropriation for expenses	112	15	321
STOCK RAISERS—			
Protection of, Sec. 2, Ch. 44, L. '99, A	14	1	42
STREETS—			
Assessment, city council to determine amount of	6	5	25
City council to determine necessity of crossings, when	6	4	25
City engineers to estimate cost of crossings	6	1	24
Interest on liens	6	7	25
Lien, assessment when unpaid to be, after what time	6	6	25
Park, cost of crossings to, how charged	6	8	25
Property owners to be heard as to necessity of crossings	6	2-3	24
SUITE—			
Adverse possession, Sec. 2, Ch. 63, L. '99, A	76	1	129
SUPERINTENDENT OF PUBLIC INSTRUCTION—			
Appropriation for contingent expenses	112	11	315
Assistant, salary, appropriation for	112	5	312
Flag day exercises, duty to prepare program	48	3	97
Salary, appropriation for	112	5	312
Temporary permits to teach, to issue, when	73	4	134
SUPREME COURT—			
See "Court, Supreme."			
SUPREME COURT CLERK—			
See "Clerk, Supreme Court."			
SURETIES—			
County officers not to become, Sec. 2, Ch. 57, L. '03, A	85	1	198
SURVEY FUND—			
Levy proceeds to be placed in	57	4	111
Surplus, how disposed	57	7	112
SURVEYOR GENERAL—			
Township plats, county commissioners to procure from	103	1	263

T

TAOS COUNTY—			
Appropriation for flood sufferers	3	5	7
District for district attorney purposes	33	1	74
Dividing line between Rio Arriba county changed, Sec. 541, C.			
L. '97, A	11	1	39
Salary of district attorney	33	3	75
Time of holding district court	16	1	44
TAXES—			
Bernalillo county, Sandoval county to levy account original			
indebtedness of	10	8	37
Bounty on wild animals, special levy, Sec. 1, Ch. 80, L. '03, A	77	1	149
Bridges, levy for construction of	96	1	108
Commissioners of Sandoval county to make special levy.....	10	8	37
"County Flood Fund," county commissioners to levy for	19	1	33
County may levy for boarding prisoners, when	8	1	30
Court house building fund, county commissioners to levy for....	54	1	106
Moneys received to be placed to credit of	54	2	106
Delinquent, enforcement of on property in hands of receiver....	64	1	199

TAXES—Continued—

	Chap.	Sec.	Pag.
"El Camino Real," commissioners to levy to create fund for.....	7	6	28
Manner of collection of fund for.....	7	11	29
Exemption of widows, Sec. 1, Ch. 95, L. '01, A.....	27	1	67
Extent of levy for construction of bridges.....	56	1	108
Indebtedness of Luna county, levy to pay interest on.....	87	10	202
Irrigation works, when exempted.....	102	8	273
Luna county bonds, levy to pay interest.....	87	6	200
Sinking fund, levy for.....	87	7	201
Municipalities to levy special, to pay water and light con- tracts.....	63	1	118
New Mexico mounted police fund, levy for.....	9	13	33
Poll—			
Assessor not to make list, Sec. 1551, C. L. '97, R.....	61	3	117
Collection and disposition of, Sec. 1549, C. L. '97 A.....	61	1	116
How and on whom levied.....	61	1	116
Levy and collection, Sec. 1549, C. L. '97, A.....	61	1	116
Lists and report made by clerk of school district, Sec. 1550, C. L. '97, A.....	61	2	117
Lists, by whom made, Sec. 1150, C. L. '97, A.....	61	2	117
No advance fees in suits for collection of.....	61	1	117
Property along Rio Grande subject to.....	18	2	49
Bought by county for, duplicate certificate to be sold....	134	1	368
Quay county, levy account territorial loan to.....	105	2	286
Road tax, see also "Roads, Public".....	124	25	344
Sandoval county, levy to pay indebtedness.....	10	8	37
School bonds, levy to pay interest on.....	74	4	136
Survey fund, levy account of.....	57	4	111
Territorial Insane Asylum bonds, levy to pay interest on.....	75	3	137
Sinking fund, levy for.....	75	4	137
Territorial purposes, levy for.....	112	19	322
U. S. land office fees, levy for.....	111	50	307

TERRITORIAL AUDITOR—

See "Auditor, Territorial."

TERRITORIAL INSANE ASYLUM BOND SINKING FUND—

See "Insane Asylum."

TERRITORIAL INSTITUTIONS—**Agricultural College—**

Appropriation.....	112	2	310
Funds derived from lands, authorized to expend.....	72	1	132
Sale of public lands for benefit of.....	111	52	308
Saloons prohibited within five miles of.....	115	2	327
Boards, funds to be expended under direction of.....	72	2	133

Children's Home—

Appropriation.....	112	2	310
--------------------	-----	---	-----

Deaf and Dumb Asylum—

Appropriation.....	112	2	310
Funds derived from lands, authorized to expend.....	72	1	132

Insane Asylum—

Appropriation.....	112	2	310
Bonds, cancellation.....	75	6	138
Creation of.....	75	1	136
Form of.....	75	2	137
Levy to pay interest on.....	75	3	137
Redemption.....	75	4	137
Sale, proceeds of.....	75	7	138
Sinking fund, investment of.....	75	5	138
Funds paid account of geological survey, transferred to.....	112	2	310

TERRITORIAL INSTITUTIONS—Continued—			Chap.	Sec.	Pag.
Medical superintendent to reside at asylum.....	112	2			310
Sinking fund, creation of.....	75	4			137
Institute for the Blind—					
Appropriation.....	112	2			310
Sale of public lands for benefit of	111	52			308
Military Institute—					
Appointment of cadets, Sec. 6, Ch. 6, L. '01, A.....	108	1			290
Appropriation	112	2			310
Miners' Hospital—					
Appropriation	112	2			310
Normal School, Silver City—					
Appropriation	112	2			310
Normal University—					
Appropriation	112	2			310
Appropriation for summer school.....	112	11			316
Reform School—					
Appropriation	112	2			310
Report, boards to make.....	72	2			133
School of Mines—					
Appropriation	112	2			310
University of New Mexico—					
Appropriation	112	2			310
TERRITORIAL IRRIGATION ENGINEER—					
See "Irrigation."					
TERRITORIAL TREASURER—					
See "Treasurer, Territorial."					
TORRANCE COUNTY—					
Bonds issue to pay indebtedness due Valencia county, Sec.					
9, Ch. 70, L. '03, A.....	2	5			4
Boundaries, Sec. 1, Ch. 70, L. '03, A.....	2	2			3
Commissioners to have records of Valencia country transferred	2	2			3
County officers.....	2	6			4
County seat, Sec. 2, Ch. 70, L. '03, A.....	2	3			3
District for district attorney purposes.....	33	1			74
Indictments and civil causes, to be transferred from					
Valencia to, when.....	2	4			3
Salary of district attorney	33	3			75
Second judicial district, attached to, Sec. 7, Ch. 70, L.					
'03, A.....	2	4			5
Time of holding district court.....	132	1			367
Treasurer of Valencia county to turn over same, when.....	2	8			5
TOWNS—					
Incorporated, see "Corporations, Municipal."					
TOWNSHIP PLATS—					
County Commissioners authorized to procure certified copies					
of	103	1			284
Probate clerk, certified copy of, to remain on file with.....	103	2			284
TRADE MARKS—					
Duty to have stamped on articles.....	24	2			64
Fee for filing	24	1			63
Filing application of right to.....	24	1			63
Forging or counterfeiting.....	24	4			64
Penalty for unlawful use of.....	24	5			64
Previously registered, how affected.....	24	6			65
Prohibition against refilling registered packages.....	24	3			64
TRAVELING AUDITOR—					
See "Auditor, Traveling."					

	Chap.	Sec.	Pag.
TREASURER—			
Boards of River Commissioners—			
Bond of	18	7	50
Duties	18	7	50
County and Ex-Officio Collector—			
Artesian well license moneys to be paid to territorial treasurer	17	7	47
Bond required	106	2	287
Compensation of	60	11	115
County—			
Dyke construction paid by warrant upon	19	5	54
Fees, property bought by county for taxes	134	2	369
Itinerant vendors to make deposit with	107	2	289
Money appropriated for flood sufferers to be deposited with	3	7	8
Property bought for taxes, sale of duplicate certificate, when	134	1	368
Return of deposit to itinerant vendor	107	5	289
Municipal—			
Bond required	106	2	287
Territorial—			
Annual settlement, Sec. 403, C. L. '97, A	71	2	132
Sec. 401, C. L. '97, A. Sec. 2605, C. L. '97, A	71	1	132
Appointment, Sec. 2608, C. L. '97, A	69	1	130
Bond, to give, Sec. 2608, C. L. '97, A	69	1	130
Certificate of indebtedness for flood sufferers, to sell.....	3	1	6
Elephant Butte Water Users' Association, to pay amount appropriated	57	2	111
Flood sufferers, inability to market certificate of indebtedness, Sec. 1, Ch. 3, L. '05, A	88	1	203
Incidental expenses, appropriation for	112	11	314
Insane Asylum bonds, cancellation	75	6	138
Sinking fund, to report condition	75	5	138
Loan to Quay county	105	1	286
Mounted police, warrants on, for pay of	9	12	23
Office to be kept at capital, Sec. 26, '08, C. L. '97, A.....	69	1	130
Public land funds, investment by	111	40	305
Salary appropriation for	112	5	311
TRESPASS—			
Entry on private land, when not	18	13	52
TRUST COMPANIES—			
Bonds of territorial and county officials, to be furnished by....	106	1	287
Maximum price for bonds furnished officials	106	3	288
Sec. 22, Ch. 22, L. '03, A	78	2	147
Sub-sec. 8, Sec. 3, Ch. 52, L. '03, A	78	1	141
TURTLE DOVE—			
Killing unlawful, when, penalty	51	2	100

U

U	cmfwy uplydwrflm pjyqwkfgmbvnu
UNAPPROPRIATED WATERS—	
Diversion, time for completion of	104 2 285
Exclusive use, party filing notice to have	104 3 285
Statement of intention to divert	104 1 284
UNINCORPORATED TOWNS—	
Bicycle riding prohibited, how	86 1 198
Penalty for bicycle riding	86 2 198
UNION COUNTY—	
District for district attorney purposes	33 1 74
Salary of district attorney	33 3 75
Time of holding district court	126 1 355

UNITED STATES LAND COMMISSION—	Chap.	Sec.	Page
Compensation	111	46	306
UNITED STATES MARSHAL—			
See "Marshal, United States."			
UNIVERSITY OF NEW MEXICO—			
See "Territorial Institutions."			

V

VALENCIA COUNTY—

Appropriation for flood sufferers	3	5	7
Board of river commissioners, election of	18	1	49
Commissioners of Torrance county to have records transferred from	2	7	5
District for district attorney purposes	33	1	74
Indictments and civil causes to be transferred to Torrance county, when	2	4	3
Salary of district attorney	33	3	75
Time of holding district court	132	1	67
Torrance county to issue bonds, covering indebtedness to	2	5	4
Treasurer to deliver money to Torrance county, when	2	8	5

VENIRES—

Grand and petit jurors, what to constitute	116	9	2
--------------------------------------------------	-----	---	---

VILLAGES—

Incorporated—See "Corporations, Municipal."			
---------------------------------------------	--	--	--

W

WARDEN—

Game and fish, see "Game and Fish Warden."			
--------------------------------------------	--	--	--

WATER AND LIGHT COMPANIES—

Must furnish, service	63	1	119
-----------------------------	----	---	-----

WATER USERS' ASSOCIATION—

Fee for filing articles, Sec. Ch. 114, L. '03, A	15	1	43
--------------------------------------------------------	----	---	----

WEATHER BUREAU—

Appropriation for printing	112	11	315
----------------------------------	-----	----	-----

WELLS, ARTESIAN—

Artesian districts, governor to create, when	17	6	46
Boring, notice to supervisor before	17	9	47
Casing, quality required	17	5	46
Compensation of supervisor	17	6	46
Condemnation of well appliances	17	9	47
County treasurers to pay over license money to territorial treasurer	17	7	47
Criminal actions for violation of act, how instituted	17	8	47
Definition	17	3	45
Duties of supervisor	17	6	46
Fines for violation of act	17	12	48
Fund for salary of supervisors	17	7	47
Inspector, records to be filed with	17	5	46
License	17	7	47
Misdemeanor, causing unnecessary flow	17	2	45
Pressure readings, duty of supervisor to take a record	17	11	48
Public nuisance, when	17	1	45
Record to be kept	17	5	46
Supervisor, governor to appoint	17	6	46
Sworn statement of owners, where filed	17	10	48
To be cased and capped	17	1	45
Unnecessary flow a misdemeanor	17	2	45
Waste, definition of	17	4	45

	Chap.	Sec.	Pag.
WIDOWS—			
Exemption as heads of families	27	1	67
WILD ANIMALS—			
See "Bounties."			
WILD ANIMAL BOUNTY—			
Sinking fund—See "Bounties."			
WILD PIGEON—			
Killing unlawful, when, penalty	51	2	100
WILD TURKEY—			
Killing unlawful, when, penalty	51	2	100
WOMENS' BOARD OF TRADE, SANTA FE—			
Appropriation	112	3	311
WRITS—			
Returnable, When—			
First judicial district	16	2	44
Second judicial district	132	2	367
Third judicial district	89	3	205
Fourth judicial district	126	2	355
Fifth judicial district	4	2	11
Sixth judicial district	89	3	205



ERRATA.

Chapter 45, Sec. 2, line 2, for "1903" read *1893*.

Chapter 46, Sec. 5, line 6, for "resriction." read *restriction*.

Chapter 60, Page 113, second line from the bottom, for "Chapter," read *Section*.

Chapter 79, Sec. 37, line 13, after words "to produce the same," insert *upon demand*.

Chapter 9, Sec. 131, line 8, for "suspension," read *supervision*.

Chapter 97, Sec. I, Page 218, eight line from the bottom, for "party" read *partly*.

Page 398, under "Bridges" transfer the words "*Assessment, Sec. 1, Ch. 67, L. '01, A. 68, 1, 1903*, to Page 399, under "Building and Savings and Loan Associations."

